



**Substitute House Bill No. 6538**

**Public Act No. 13-203**

**AN ACT CONCERNING ARBORISTS AND TREE WARDENS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2013*) For the purposes of sections 2 to 7, inclusive, of this act:

(1) "Arborist business" means any business that wholly, or in part, holds itself out for hire to perform arboriculture.

(2) "Arboriculture" has the same meaning as provided in section 23-61a of the general statutes.

(3) "Place of business" means any physical location at or through which the functional operations of business regularly occur, including, but not limited to, financial transactions, arrangement of contracts, assignment of contracts, assignment of work and record keeping. "Place of business" does not include buildings or locations used solely for storage of equipment or supplies or any telephone answering service.

Sec. 2. (NEW) (*Effective October 1, 2013*) (a) No person shall engage in the operation of an arborist business unless such person has a certificate of registration from the Commissioner of Energy and Environmental Protection. A certificate of registration shall expire on

**Substitute House Bill No. 6538**

the thirty-first day of August next succeeding its issuance. Any arborist business with more than one place of business in the state or that operates under more than one name shall register and pay the application fee for each place of business and for each business name.

(b) Application for a certificate of registration shall be made on such form as the commissioner may prescribe and with such information as the commissioner deems necessary to fulfill the purposes of sections 2 to 7, inclusive, of this act, provided such information shall, at a minimum, include the following: (1) The applicant's name and residential address, (2) the name, address and telephone number of the place of business, (3) the name and license number of the licensed arborist employed by the arborist business, and (4) the type of business. Each arborist business shall notify the commissioner of any change in the information contained in an application or in the status of the business as an arborist business. Such notification shall be submitted, in writing, not more than thirty days after any change.

(c) An application for a certificate of registration shall be accompanied by payment of a fee of two hundred forty dollars. The commissioner may waive payment of the fee for the initial renewal of a certificate of registration issued during the three months prior to expiration of such certificate of registration. An application for a certificate of registration or renewal shall not be deemed to be complete or sufficient until the applicable fee is paid in full.

(d) Notwithstanding the provisions of section 22a-66c of the general statutes, any person who complies with the registration requirements of this section shall not be required to register such arborist business pursuant to section 22a-66c of the general statutes if such arborist business also engages in pesticide application.

Sec. 3. (NEW) (*Effective October 1, 2013*) (a) The Commissioner of Energy and Environmental Protection shall, after review of a complete

***Substitute House Bill No. 6538***

application submitted in accordance with the provisions of section 2 of this act, issue or deny a certificate of registration. The commissioner shall inform an applicant of a denial of a certificate of registration by certified mail, return receipt requested. The commissioner shall briefly state the reasons, as listed in subsection (c) of this section, for such denial. Any applicant aggrieved by the commissioner's decision to deny a certificate of registration may, not later than thirty days after the date of such decision, request a hearing before the commissioner. Such hearing shall be held in accordance with the provisions of chapter 54 of the general statutes.

(b) The commissioner may revoke or suspend a certificate of registration in accordance with the provisions of subsection (c) of this section and section 4-182 of the general statutes.

(c) The grounds for denial, revocation or suspension of a certificate of registration shall include the following:

(1) Violation of any provision of chapter 441 or 451 of the general statutes or any regulation, permit, certificate, registration or order adopted, issued or administered or issued pursuant to said chapters 441 and 451;

(2) Inclusion of false or misleading information in an application or the failure to notify the commissioner of a change, as required by section 2 of this act;

(3) Inclusion of false or misleading information in records required to be maintained pursuant to section 5 of this act, or the failure to maintain such records or provide the commissioner with the records required by section 5 of this act;

(4) Use of a pesticide in a manner inconsistent with the registered labeling or with state or federal restrictions on the use of such pesticide;

***Substitute House Bill No. 6538***

(5) Application of pesticides generally known in the trade to be ineffective or improper for the intended use;

(6) Operation of faulty or unsafe equipment which may result in improper pesticide application or harm to the environment, a worker or other persons;

(7) Application of a pesticide or performance of arboriculture in a faulty, careless or negligent manner;

(8) Aiding or abetting a licensed or unlicensed person to evade the provisions of chapter 441 or 451 of the general statutes or any regulation, permit, certificate, registration or order adopted, issued or administered pursuant to said chapters 441 and 451;

(9) The making of a false or misleading statement during an inspection or investigation concerning an infestation of pests, an accident in applying a pesticide, misuse of a pesticide, or violation of a statute, regulation, certificate, registration or order;

(10) The performance of arboriculture which does not meet generally accepted industry standards;

(11) The performance of work, whether or not for compensation, in a category for which the arborist is not certified; and

(12) The conviction of the applicant of a felony, as defined in section 53a-25 of the general statutes.

(d) Any arborist business whose certificate of registration is denied, suspended or revoked shall not be eligible to reapply for a certificate of registration until the commissioner determines that such applicant may reapply.

(e) The commissioner shall not issue a certificate of registration or a renewal of a certificate of registration to an arborist business unless

**Substitute House Bill No. 6538**

such arborist business submits the summary required pursuant to subsection (d) of section 22a-58 of the general statutes for the previous calendar year.

Sec. 4. (NEW) (*Effective October 1, 2013*) Each arborist business shall employ at each place of business no fewer than one arborist licensed pursuant to section 23-61b of the general statutes, as amended by this act.

Sec. 5. (NEW) (*Effective October 1, 2013*) (a) Each arborist business shall maintain records for not less than five years from the date such record is made or amended, whichever is later. The record shall indicate: (1) For each application of a pesticide made on behalf of the business, (A) the name and certification number of the commercial supervisor and the commercial operator, (B) the kind and amount of pesticide used and the amount of acreage treated, if applicable, (C) the date and place of application, (D) the pest treated for, and (E) the crop or site treated; (2) a list of the names and corresponding United States Environmental Protection Agency registration numbers of any pesticide applied by the business; (3) the names and applicator certification numbers of all certified commercial pesticide applicators, whether operator or supervisory, who are employees or agents of the arborist business, and a list of the types of applications that each applicator performs; and (4) for each site where arboriculture not involving the use of pesticides was performed: (A) The type of work performed, including, but not limited to, pruning, trimming, cabling, bracing, fertilization or treating cavities, (B) the date and place of work, (C) the name and license number of the licensed arborist supervising the work, and (D) the names of any unlicensed or licensed persons performing the work under the supervision of the licensed arborist.

(b) Information required under subdivision (2) of subsection (a) of this section may be kept separately from the records required by subdivision (1) of subsection (a) of this section or may be integrated

**Substitute House Bill No. 6538**

with such records by including on the record of each pesticide application the full name and the United States Environmental Protection Agency registration number of the pesticide used.

(c) All records and information required to be kept pursuant to this section shall be kept at the place of business for such arborist business and may be inspected by the Commissioner of Energy and Environmental Protection pursuant to section 22a-59 of the general statutes. If the place of business for such arborist business is outside of the state, the records and information shall be made available to the commissioner at a location in the state not more than ten days after receipt of a request for inspection from the commissioner.

(d) Each arborist business shall, upon written request, provide any customer with a copy of the record which is required to be kept pursuant to this section and which pertains to arboriculture performed for such customer.

Sec. 6. (NEW) (*Effective October 1, 2013*) Any person who violates any provision of sections 2 to 7, inclusive, of this act shall forfeit to the state a sum not to exceed five thousand dollars per day for each day of violation. The Attorney General, upon complaint of the Commissioner of Energy and Environmental Protection, shall institute a civil action to recover such forfeiture in the superior court for the judicial district of Hartford. All actions brought by the Attorney General shall have precedence in the order of trial as provided in section 52-191 of the general statutes.

Sec. 7. (NEW) (*Effective October 1, 2013*) In any proceeding regarding the denial, suspension or revocation of a certificate of registration, and any proceeding pursuant to section 3 of this act, the action, omission or failure to act of any officer, agent or other person acting for or employed by the arborist business shall be deemed to be the action, omission or failure to act of the arborist business as well as that of the

**Substitute House Bill No. 6538**

person employed.

Sec. 8. Section 23-61b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) No person shall advertise, solicit or contract to do arboriculture within this state at any time without a license issued in accordance with the provisions of this section, except that any person may improve or protect any tree on such person's own premises or on the property of such person's employer without securing such a license provided such activity does not violate the provisions of chapter 441, subsection (a) of section 23-61a or this section. Application for an examination for such license shall be made to the Commissioner of Energy and Environmental Protection and shall contain such information regarding the applicant's qualifications and proposed operations and other relevant matters as the commissioner may require and shall be accompanied by a fee of [fifty] two hundred dollars which shall not be returnable.

(b) The commissioner shall require the applicant to show upon examination that the applicant possesses adequate knowledge concerning the proper methods of arboriculture and the dangers involved and the precautions to be taken in connection with these operations, together with knowledge concerning the proper use and application of pesticides and the danger involved and precautions to be taken in connection with their application. If the applicant is other than an individual, the applicant shall designate an officer, member or technician of the organization to take the examination, which designee shall be subject to approval of the commissioner except that any person who uses pesticides in arboriculture shall be licensed to do arboriculture or shall be a licensed commercial applicator under chapter 441. If the extent of the applicant's operations warrant, the commissioner may require more than one such member or technician to be examined. If the commissioner finds the applicant qualified, the

**Substitute House Bill No. 6538**

commissioner shall issue a license to perform arboriculture within this state. A license shall be valid for a period of five years, provided the commissioner may issue such licenses such that one-fifth of such licenses expire each year and the commissioner may issue a license for a period of less than five years and prorate the license fee accordingly. If the commissioner finds that the applicant is not qualified, or if the commissioner refuses to issue a license for any other reason, the commissioner shall so inform the applicant in writing, giving reasons for such refusal.

(c) The commissioner may issue a license without examination to any nonresident who is licensed in another state under a law that provides substantially similar qualifications for licensure and which grants similar privileges of licensure without examination to residents of this state licensed under the provisions of this section.

(d) Each licensee shall pay a license [renewal fee of one hundred ninety] fee of two hundred eighty-five dollars for each license or renewal. All examination and license [renewal] fees shall be deposited as provided in section 4-32, and any expenses incurred by the commissioner in making examinations, issuing certificates, inspecting tree work or performing any duties of the commissioner shall be charged against appropriations of the General Fund.

(e) Each licensee shall maintain and, upon request, furnish such records concerning licensed activities as the commissioner may require.

(f) The commissioner may suspend for not more than ten days and, after notice and hearing as provided in any regulations established by the commissioner, may suspend for additional periods, or the commissioner may revoke, any license issued under this section if the commissioner finds that the licensee is no longer qualified or has violated any provision of section 23-61a or this section, or any

**Substitute House Bill No. 6538**

regulation adopted thereunder.

(g) The Commissioner of Energy and Environmental Protection, in consultation with the board, shall establish standards for examining applicants and reexamining applicators with respect to the proper use and application of pesticides and [agricultural] arboricultural methods. Such standards shall provide that in order to be certified, an individual shall be competent with respect to the use and handling of pesticides or the use and handling of the pesticide or class of pesticides covered by such individual's application or certification and in the proper and safe application of recognized arboricultural methods.

(h) Any licensed arborist shall be considered to be a certified applicator under section 22a-54 with respect to the use of pesticides.

(i) Any person who is a certified supervisory pesticide applicator, as described in section 22a-54, and who is also licensed as an arborist pursuant to this section, shall not be required to pay a license fee pursuant to this section provided such person pays any fee required pursuant to section 22a-54.

Sec. 9. (NEW) (*Effective October 1, 2013*) (a) Not later than one year after appointment or reappointment as a tree warden, pursuant to section 23-58 of the general statutes, such tree warden shall successfully complete coursework, as approved by the Commissioner of Energy and Environmental Protection. The minimum requirements for such coursework shall include: Tree biology, tree maintenance and pruning, urban forest management and tree laws. The commissioner may administer such coursework or may, in the commissioner's sole discretion, delegate responsibility to administer such coursework to a professional or educational organization capable of providing such training.

(b) In the event that a tree warden fails to comply with the

***Substitute House Bill No. 6538***

provisions of subsection (a) of this section, such tree warden shall not be eligible for reappointment pursuant to section 23-58 of the general statutes.

(c) Upon written request to the Commissioner of Energy and Environmental Protection by the chief elected official of the municipality that appointed a tree warden, a six-month extension of time may be granted for the purpose of the completion of the coursework required pursuant to subsection (a) of this section.

(d) Each tree warden shall maintain a record of the completion of the coursework required pursuant to subsection (a) of this section and, upon request, furnish such records to the commissioner or the commissioner's designee, and the chief elected official of the municipality that appointed such tree warden.

(e) (1) Any tree warden who successfully completes the Tree Wardens Association of Connecticut coursework prior to the effective date of this section shall be deemed by the Commissioner of Energy and Environmental Protection to have successfully completed the coursework required by this section, provided not later than December 31, 2013, a duly authorized officer of the Tree Wardens Association of Connecticut certifies to the commissioner and to the chief elected official of the municipality that appointed such tree warden, in writing, that such tree warden has successfully completed the Tree Wardens Association of Connecticut coursework.

(2) The successful completion of the Tree Wardens Association of Connecticut coursework prior to the effective date of this section by a deputy tree warden appointed pursuant to section 23-58 of the general statutes shall be deemed by the commissioner to satisfy the requirements of subsection (a) of this section, provided not later than December 31, 2013, a duly authorized officer of the Tree Wardens Association of Connecticut certifies to the commissioner and to the

**Substitute House Bill No. 6538**

chief elected official of the municipality that appointed such deputy tree warden, in writing, that such deputy tree warden has successfully completed the Tree Wardens Association of Connecticut coursework.

(3) The requirements of subsection (a) of this section shall not apply to any tree warden who: (A) Is an arborist licensed by the Commissioner of Energy and Environmental Protection, or (B) appoints a deputy tree warden who successfully completes the coursework required by subsection (a) of this section, who meets the requirements of subdivision (2) of this subsection or who is an arborist licensed by the Commissioner of Energy and Environmental Protection.

(f) The commissioner, or the commissioner's designee, may charge a reasonable fee to cover the costs associated with the coursework required pursuant to this section. In the event a tree warden is a volunteer, the municipality that appointed such tree warden shall pay the cost of such required coursework.

Sec. 10. Section 23-58 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

The selectmen of each town, except those having cities with coextensive boundaries within their limits, which cities have an officer with similar duties to those of a tree warden who in fact assumes control of all the territory embraced within their limits, and the warden or burgesses of each borough shall, within thirty days of their election, appoint a town or borough tree warden, as the case may be. Such tree wardens shall be appointed for the term of [one year] two years and until their successors are appointed and have qualified. Any tree warden may appoint such number of deputy tree wardens as [he] said warden deems expedient and [he] said warden may, at any time, remove [them] any such deputy tree warden from office. A town or borough tree warden and [his] such warden's deputies shall receive for

***Substitute House Bill No. 6538***

their services such reasonable compensation, from the town or borough, as the town or borough may determine or, in default of such determination, as the selectmen or borough warden prescribes.

Approved June 21, 2013