

OFFICE OF LEGISLATIVE RESEARCH  
PUBLIC ACT SUMMARY



**PA 13-203**—sHB 6538

*Environment Committee*

*Finance, Revenue and Bonding Committee*

*Planning and Development Committee*

*Judiciary Committee*

**AN ACT CONCERNING ARBORISTS AND TREE WARDENS**

**SUMMARY:** This act establishes a registration requirement for arborist businesses, modifies the arborist license fees, and creates a coursework requirement for municipally appointed tree wardens.

The act requires businesses performing certain tree work (arboriculture) to (1) annually register with the Department of Energy and Environmental Protection (DEEP) and pay a \$240 fee and (2) employ at least one licensed arborist at each place of business. Among other things, it also:

1. prescribes the manner in which an arborist business applies for a certificate of registration;
2. allows the DEEP commissioner to deny, revoke, or suspend registrations;
3. requires arborist businesses to keep detailed records for at least five years; and
4. subjects violators to a fine for each day a violation continues.

The act increases, (1) from \$50 to \$200, the nonreturnable arborist license application fee and (2) from \$190 to \$285, the license renewal fee. It establishes an initial license fee of \$285. But it exempts certain certified pesticide applicators from paying an arborist license fee.

The act (1) generally requires municipal tree wardens to complete certain coursework approved by DEEP within one year after being appointed or reappointed and (2) extends, from one year to two, the term length of municipally appointed tree wardens. But it exempts from the coursework requirement tree wardens who (1) complete similar coursework and provide evidence of its completion, (2) are licensed arborists, or (3) appoint deputy tree wardens with similar qualifications. The act requires wardens to keep coursework records and provide the records upon request to DEEP and the officials who appointed them. And it allows a reasonable fee to be charged for coursework costs.

The act also makes technical changes.

EFFECTIVE DATE: October 1, 2013

**ARBORIST BUSINESSES**

*Registration Requirement*

The act requires anyone operating a business that, at least in part, holds itself out for hire to perform arboriculture (“arborist business”) to have a certificate of registration from DEEP. By law, “arboriculture” includes (1) improving the

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condition of fruit, shade, or ornamental trees by feeding, fertilizing, pruning, trimming, bracing, treating cavities, or other methods or (2) protecting trees from, or curing them of, insect or disease damage by spraying or other methods (CGS § 23-61a). The act exempts a registered arborist business that engages in pesticide application from also having to register with DEEP as a pesticide application business.

The act requires arborist businesses with more than one place of business in Connecticut or operating under more than one name to register and pay the application fee for each location and name.

Under the act, an arborist businesses' "place of business" is a physical location where its functional operations, such as financial transactions, contract arrangements and assignments, work assignments, and recordkeeping, regularly occur. It excludes places or buildings used only for storing equipment or supplies or any telephone answering service.

### *Application and Decision Process*

Applicants must apply for a certificate of registration on a form the DEEP commissioner prescribes and supply the following information, together with any other information the commissioner requests:

1. applicant's name and home address;
2. business name, address, and phone number;
3. name and license number of the licensed arborist employed by the business; and
4. business type.

A registrant must notify the commissioner in writing within 30 days after any change in the application information or in its status as an arborist business.

Businesses applying for an initial or renewed certificate of registration must also provide a summary for the previous calendar year of the (1) names and certification numbers of its commercial pesticide application supervisors and operators and (2) kinds and amounts of pesticides it used.

The act requires the commissioner to review applications and, if he denies one, inform the applicant of his reasons by certified mail, return receipt requested. No later than 30 days after the date of the decision, a denied applicant may request a hearing before the commissioner to be held in accordance with the Uniform Administrative Procedure Act (UAPA).

### *Fees and Expiration Dates*

Under the act, registration certificates expire on the August 31 after they are issued. The application for a certificate of registration or its renewal must include a \$240 fee, but the commissioner may waive the fee for the first renewal if the registration was issued during the three months before the expiration date. Applications are considered incomplete or insufficient until the fee is fully paid.

### *Grounds for Registration Denial, Suspension, or Revocation*

In addition to denying registrations, the DEEP commissioner may revoke or suspend a certificate of registration in accordance with the UAPA. The reasons

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for such actions include:

1. violating or helping someone avoid the state's pesticide control or arboriculture and public shade trees laws or a regulation, permit, certificate, registration, or order adopted, administered, or issued under them;
2. including false or misleading information in an application or failing to notify the commissioner of a change in application information;
3. including false or misleading information in the act's required records, or failing to maintain or provide them to the commissioner when requested;
4. using a pesticide in a manner inconsistent with its registered label or state or federal restrictions;
5. applying pesticides generally known in the trade to be ineffective or improper for the intended use;
6. operating faulty or unsafe equipment that may result in improper pesticide application or harm the environment, a worker, or other people;
7. applying a pesticide or performing arboriculture in a faulty, careless, or negligent manner;
8. making a false or misleading statement during an inspection or investigation concerning pest infestation; a pesticide application accident; pesticide misuse; or a violation of a law, regulation, certificate, registration, or order;
9. performing arboriculture that does not meet generally accepted industry standards;
10. performing work outside of the arborist's certification, whether or not for compensation; and
11. conviction of a felony.

The act specifies that an arborist business with a denied, suspended, or revoked certificate of registration is ineligible to reapply until the commissioner allows it to do so.

Under the act, in any proceeding on registration denial, suspension, or revocation, the action, omission, or failure to act of an officer, agent, or person acting for or employed by the business is also considered to be that of the business.

### *Recordkeeping*

The act requires arborist businesses to maintain the following records for at least five years:

1. for each pesticide application, the (a) name and certification number of the commercial supervisor and operator; (b) kind and amount of pesticide used and the amount of acreage treated, if applicable; (c) date and place of application; (d) pest treated for; and (e) crop or site treated;
2. a list of the names and U.S. Environmental Protection Agency (EPA) registration numbers of pesticides applied by the business;
3. the names and certification numbers of all certified commercial pesticide applicators who are employees or agents of the business and a list of the types of applications each performs; and

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4. for each location where arboriculture was performed without pesticide use, the (a) type of work performed, (b) date and place of work, (c) name and license number of the supervising arborist, and (d) names of people working under the supervising licensed arborist.

The act allows the pesticide name and EPA registration number information to be either kept separately from, or integrated with, the pesticide application records. Integrated records must include the pesticide's full name and registration number on the record of each application.

If a record is amended, it must be kept for at least five years from the amendment date.

### *Records Inspections*

The act requires arborist businesses to keep the records at their places of business. It allows the DEEP commissioner to inspect them. If the place of business is located outside of Connecticut, the business must make the records available to the commissioner at a location in the state no more than 10 days after receiving the commissioner's request to do so.

Arborist businesses must, in response to a customer's written request, provide copies of the records that relate to the arboriculture performed for the customer.

### *Penalties*

Violators of the act's arborist business provisions must be fined up to \$5,000 for each day of violation. The act requires the attorney general to bring a civil action in Hartford Superior Court to recover the fine if the DEEP commissioner requests it. These actions take precedence over all private civil actions in the order of trial except those taken on probate bonds.

## LICENSED ARBORISTS

The law generally requires anyone who advertises, solicits, or contracts to do arboriculture in Connecticut to be licensed by DEEP. Applicants must take an examination and include in the application their qualifications and proposed operations.

The act increases, from \$50 to \$200, the nonreturnable application fee. It establishes an initial license fee of \$285 and increases the license renewal fee from \$190 to \$285. Certified supervisory pesticide applicators that are also licensed as arborists are exempt from having to pay an arborist license fee if they paid to be licensed as a pesticide applicator. (By law, the license fee for certified supervisory pesticide applicators is also \$285).

By law, an arborist license is valid for five years. But the act allows the DEEP commissioner to issue licenses (1) for a period of less than five years and prorate the license fee and (2) in a way that causes 20% of the licenses to expire each year.

## TREE WARDENS

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### *Appointment Term Length*

The act extends, from one year to two, the term length for municipally appointed tree wardens. By law, the wardens (1) are appointed for the term and until successors are appointed and have qualified and (2) may appoint deputy tree wardens.

### *Coursework Requirement*

The act requires tree wardens to successfully complete coursework related to the position no later than one year after their appointment or reappointment. The coursework, approved by the DEEP commissioner, must at least include tree laws, biology, maintenance, pruning, and urban forest management.

The act allows the commissioner to administer the coursework or delegate the responsibility to a professional or educational organization that can provide the training. The commissioner or his designee can charge a reasonable fee for coursework costs. The act requires municipalities to pay the coursework cost for appointed tree wardens who are volunteers.

The act makes tree wardens who fail to complete the coursework ineligible for reappointment. But it allows a municipal chief elected official to make a written request to DEEP for a six-month extension to complete the coursework.

The act exempts from the coursework requirement tree wardens who (1) are DEEP-licensed arborists or (2) successfully complete the Tree Wardens Association of Connecticut (TWAC) coursework before October 1, 2013, if a duly authorized TWAC officer certifies to that fact, in writing, to the commissioner and the municipal chief elected official by December 31, 2013. It also exempts wardens who appoint deputy tree wardens who (1) successfully complete the required coursework, (2) successfully complete the TWAC coursework before October 1, 2013 and provide the certification described above, or (3) are DEEP-licensed arborists.

The act also requires tree wardens to (1) maintain a record of coursework completion and (2) provide, upon request, the records to the commissioner or his designee and the chief elected municipal officials who appointed them.

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