

HOUSE BILL 178

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6lr0965

By: **Delegates Lafferty, Frush, Lam, Lierman, S. Robinson, and M. Washington**

Introduced and read first time: January 21, 2016

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Roadside Trees – Preservation and Protection**

3 FOR the purpose of authorizing the Department of Natural Resources to issue a permit for
4 roadside tree maintenance or removal only under certain circumstances; prohibiting
5 the Department from issuing a permit for roadside tree maintenance or removal for
6 a certain purpose; requiring an applicant for a permit to remove a roadside tree to
7 make a certain showing to the Department; requiring a person who removes a
8 roadside tree to replace the roadside tree within certain time periods; requiring the
9 Department to ensure that all required replacement trees are planted; requiring a
10 person who maintains or removes a roadside tree to eliminate a hazard or source of
11 danger to, if necessary, remediate the hazard or source of danger within a certain
12 time period; establishing certain fees for a roadside tree maintenance permit and
13 removal permit; requiring the Department to refund a certain portion of a roadside
14 tree removal permit fee when the required replacement tree is planted; authorizing
15 a person to perform certain trimming of a roadside tree without a permit under
16 certain circumstances; requiring the Department to submit a certain report on
17 certain activity related to roadside trees to the General Assembly on or before a
18 certain date annually; requiring the Department to adopt certain regulations
19 governing the authorized trimming of roadside trees without a permit; stating the
20 policy of the General Assembly with respect to roadside trees; making certain
21 stylistic changes; clarifying certain language; and generally relating to the
22 preservation and protection of roadside trees.

23 BY repealing and reenacting, without amendments,
24 Article – Natural Resources
25 Section 5–401
26 Annotated Code of Maryland
27 (2012 Replacement Volume and 2015 Supplement)

28 BY adding to
29 Article – Natural Resources

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 5–401.1
2 Annotated Code of Maryland
3 (2012 Replacement Volume and 2015 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article – Natural Resources
6 Section 5–402 and 5–406
7 Annotated Code of Maryland
8 (2012 Replacement Volume and 2015 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
10 That the Laws of Maryland read as follows:

11 **Article – Natural Resources**

12 5–401.

13 In this subtitle, “roadside tree” means any tree or shrub growing within the
14 right-of-way of any public road.

15 **5–401.1.**

16 **IT IS THE POLICY OF THE GENERAL ASSEMBLY TO PRESERVE AND PROTECT**
17 **HEALTHY ROADSIDE TREES IN THE INTERESTS OF:**

18 **(1) PROVIDING ENVIRONMENTAL AND ECOLOGICAL BENEFITS,**
19 **INCLUDING:**

20 **(I) THE REDUCTION OF STORMWATER RUNOFF AND SOIL**
21 **EROSION;**

22 **(II) THE SEQUESTRATION AND STORAGE OF CARBON AND THE**
23 **REDUCTION OF THE NEGATIVE EFFECTS OF GREENHOUSE GASES;**

24 **(III) THE REDUCTION OF THE URBAN “HEAT ISLAND EFFECT”;**

25 **(IV) THE PROVISION OF FOOD AND HABITAT FOR BIRDS AND**
26 **OTHER WILDLIFE; AND**

27 **(V) THE REDUCTION OF ENERGY USE; AND**

28 **(2) MAINTAINING THE SOCIAL AND ECONOMIC BENEFITS THAT**
29 **ROADSIDE TREES PROVIDE.**

30 5–402.

1 The Department [may]:

2 (1) MAY plant trees along the roadsides[, make rules and];

3 (2) SHALL ADOPT regulations governing the planting, [care for and
4 protect] MAINTENANCE, AND PROTECTION OF any roadside tree, INCLUDING
5 REGULATIONS AUTHORIZING WITHOUT A PERMIT THE TRIMMING OF THE LOWER
6 LIMBS OF A ROADSIDE TREE IN A MANNER THAT DOES NOT HARM THE TREE; and

7 (3) MAY establish one or more State forest nurseries for the propagation of
8 trees for any roadside planting.

9 5-406.

10 (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON MAY NOT
11 MAINTAIN, REMOVE, OR IN ANY MANNER INJURE A ROADSIDE TREE.

12 (B) (1) Except as provided in subsection [(b)] (C) of this section, any person
13 who desires to [cut down or trim any] MAINTAIN OR REMOVE A roadside tree shall apply
14 to the Department for a permit.

15 (2) (I) THE DEPARTMENT MAY ISSUE A PERMIT FOR ROADSIDE
16 TREE MAINTENANCE OR REMOVAL ONLY IF:

17 1. THE MAINTENANCE OR REMOVAL OF THE ROADSIDE
18 TREE ELIMINATES A HAZARD OR SOURCE OF DANGER TO PROPERTY, PUBLIC
19 SAFETY, OR HEALTH; OR

20 2. THE TREE IS DEAD, DYING, OR DETERIORATING.

21 (II) THE DEPARTMENT MAY NOT ISSUE A PERMIT FOR
22 ROADSIDE TREE MAINTENANCE OR REMOVAL FOR THE PURPOSE OF IMPROVING THE
23 GENERAL AESTHETIC APPEARANCE OF THE RIGHT-OF-WAY.

24 (3) AN APPLICANT FOR A PERMIT TO REMOVE A ROADSIDE TREE
25 SHALL DEMONSTRATE TO THE SATISFACTION OF THE DEPARTMENT THAT THE
26 APPLICANT HAS MADE EVERY POSSIBLE EFFORT TO PROTECT AND SAVE THE
27 ROADSIDE TREE.

28 (4) (I) A PERSON WHO REMOVES A ROADSIDE TREE SHALL
29 REPLACE THE ROADSIDE TREE:

30 1. WITHIN 2 MONTHS AFTER ITS REMOVAL; OR

1 **2. IF THE REMOVAL OCCURS DURING AN**
2 **INAPPROPRIATE PLANTING SEASON FOR THE REPLACEMENT TREE SPECIES, WITHIN**
3 **A TIME FRAME ESTABLISHED BY THE DEPARTMENT IN THE REMOVAL PERMIT.**

4 **(II) THE DEPARTMENT SHALL ENSURE THAT ALL REQUIRED**
5 **REPLACEMENT TREES ARE PLANTED.**

6 **(5) A PERSON WHO MAINTAINS OR REMOVES A ROADSIDE TREE TO**
7 **ELIMINATE A HAZARD OR SOURCE OF DANGER CAUSED BY THE TREE SHALL, IF**
8 **NECESSARY, REMEDIATE THE HAZARD OR SOURCE OF DANGER WITHIN 3 WEEKS OF**
9 **THE REMOVAL OF THE ROADSIDE TREE.**

10 **(6) (I) THE FEE FOR A PERMIT IS:**

11 **1. \$250 FOR EACH ROADSIDE TREE MAINTAINED; AND**

12 **2. \$500 FOR EACH ROADSIDE TREE REMOVED.**

13 **(II) THE DEPARTMENT SHALL REFUND \$250 OF THE PERMIT**
14 **FEE FOR REMOVAL OF A ROADSIDE TREE WHEN THE REQUIRED REPLACEMENT TREE**
15 **IS PLANTED.**

16 **[(b)] (C) (1) A person may remove a tree or its branches without first**
17 **obtaining a permit from the Department if the tree is unrooted or its branches broken so**
18 **as to contact telephone, telegraph, electric power, or other wires carrying electric current,**
19 **or if the tree or its branches endanger persons or property.**

20 **(2) A tree may be cut down and removed by an abutting landowner for the**
21 **landowner's own use without first obtaining a permit if the tree is standing within the**
22 **right-of-way of a public road which has not been surfaced with either stone, shell, gravel,**
23 **concrete, brick, asphalt, or other improved surface.**

24 **(3) A PERSON MAY TRIM THE LOWER LIMBS OF A ROADSIDE TREE IN**
25 **A MANNER THAT DOES NOT HARM THE TREE WITHOUT FIRST OBTAINING A PERMIT,**
26 **CONSISTENT WITH REGULATIONS ADOPTED UNDER § 5-402 OF THIS SUBTITLE.**

27 **[(c) A person may not cut down, trim, mutilate, or in any manner injure any**
28 **roadside tree, except as authorized by this section, without a permit from the Department.]**

29 **(d) A county or municipality may not issue a building permit to an applicant for**
30 **any clearing, construction, or development that will result in the trimming, cutting,**
31 **removal, or injury of a roadside tree until the applicant first obtains a permit from the**
32 **Department in accordance with this section.**

1 (e) A person who [trims, cuts] **MAINTAINS**, removes, or injures a roadside tree in
2 violation of **THIS SECTION**, a regulation adopted under § 5–402 of this subtitle, or a permit
3 issued under this section or who fails to obtain a permit as required by this section is liable
4 for the imposition of a penalty:

5 (1) Not exceeding \$2,000 for a first offense; and

6 (2) Not exceeding \$5,000 for a second or subsequent offense.

7 **(F) ON OR BEFORE APRIL 1 OF EACH YEAR, THE DEPARTMENT SHALL**
8 **SUBMIT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE**
9 **STATE GOVERNMENT ARTICLE, A REPORT FOR THE PREVIOUS CALENDAR YEAR**
10 **STATING BY COUNTY THE NUMBER OF:**

11 **(1) PERMITS ISSUED FOR THE MAINTENANCE OF ROADSIDE TREES;**

12 **(2) (I) PERMITS ISSUED FOR THE REMOVAL OF ROADSIDE TREES;**

13 **(II) ROADSIDE TREES THAT WERE REMOVED; AND**

14 **(III) ROADSIDE TREES THAT WERE REPLACED; AND**

15 **(3) ENFORCEMENT ACTIONS TAKEN UNDER THIS SECTION.**

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
17 1, 2016.