

HOUSE BILL 1118

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By: **Delegate Lafferty**

Introduced and read first time: February 9, 2017

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 allow under a
4 permit for roadside tree care the maintenance or removal of a roadside tree under
5 certain circumstances; prohibiting the Department from authorizing under a permit
6 for roadside tree care the maintenance or removal of a roadside tree for certain
7 purposes; requiring an applicant for a permit to remove a roadside tree to
8 demonstrate to the Department that the applicant has made a reasonable effort to
9 protect and preserve the roadside tree; requiring an applicant for a permit for a
10 program of general tree care to demonstrate to the Department that the program
11 includes reasonable standards and procedures to protect and preserve roadside trees;
12 requiring a person who removes a roadside tree to replace the tree with a species of
13 tree, within the time frame, and in a location as approved in the permit; requiring a
14 person who administers a program of general tree care under a permit to ensure that
15 any roadside tree removed is replaced consistent with the permit; providing that a
16 permit holder may not be required to replace a removed roadside tree under certain
17 circumstances; requiring the Department to adopt certain regulations governing the
18 replacement of roadside trees and certain required notice to certain State or local
19 agencies under certain circumstances; stating the policy of the General Assembly
20 with respect to roadside trees; making certain stylistic changes; clarifying certain
21 language; and generally relating to the preservation and protection of roadside trees.

22 BY repealing and reenacting, without amendments,
23 Article – Natural Resources
24 Section 5–401
25 Annotated Code of Maryland
26 (2012 Replacement Volume and 2016 Supplement)

27 BY adding to
28 Article – Natural Resources
29 Section 5–401.1

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2012 Replacement Volume and 2016 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Natural Resources
5 Section 5–402 and 5–406
6 Annotated Code of Maryland
7 (2012 Replacement Volume and 2016 Supplement)

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

10 **Article – Natural Resources**

11 5–401.

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

14 **5–401.1.**

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

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

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

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

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

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

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

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

29 5–402.

1 The Department [may]:

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

3 (2) SHALL ADOPT regulations governing [the]:

4 (I) THE planting, care, [for and protect] MAINTENANCE,
5 PROTECTION, AND REPLACEMENT OF any roadside tree[, and]; AND

6 (II) REQUIRED NOTICE BY THE PERMIT HOLDER TO THE
7 APPROPRIATE STATE OR LOCAL TRANSPORTATION OR PUBLIC WORKS AGENCY
8 ABOUT THE NEED TO, IF NECESSARY, TIMELY REMEDIATE A HAZARD OR SOURCE OF
9 DANGER CAUSED BY A ROADSIDE TREE REMOVED UNDER THE PERMIT; AND

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

12 5-406.

13 (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON MAY NOT
14 MAINTAIN, REMOVE, OR OTHERWISE INJURE A ROADSIDE TREE.

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

18 (2) (I) THE DEPARTMENT MAY AUTHORIZE UNDER A PERMIT FOR
19 ROADSIDE TREE CARE THE MAINTENANCE OR REMOVAL OF ANY ROADSIDE TREES:

20 1. TO ELIMINATE A HAZARD OR SOURCE OF DANGER TO
21 PROPERTY, PUBLIC SAFETY, OR HEALTH; OR

22 2. THAT ARE DEAD, DYING, OR DETERIORATING.

23 (II) THE DEPARTMENT MAY NOT AUTHORIZE UNDER A PERMIT
24 FOR ROADSIDE TREE CARE THE MAINTENANCE OR REMOVAL OF ANY ROADSIDE
25 TREES:

26 1. TO IMPROVE THE GENERAL AESTHETICS OF THE
27 RIGHT-OF-WAY OR AN ADJACENT PROPERTY; OR

28 2. FOR THE CONVENIENCE OF AN ADJACENT PROPERTY
29 OWNER OR RESIDENT.

1 **(3) (I) AN APPLICANT FOR A PERMIT TO REMOVE A SPECIFIC**
2 **ROADSIDE TREE OR GROUP OF ROADSIDE TREES SHALL DEMONSTRATE TO THE**
3 **SATISFACTION OF THE DEPARTMENT THAT THE APPLICANT HAS MADE A**
4 **REASONABLE EFFORT TO PROTECT AND PRESERVE THE ROADSIDE TREE OR TREES.**

5 **(II) AN APPLICANT FOR A PERMIT FOR A PROGRAM OF GENERAL**
6 **TREE CARE SHALL DEMONSTRATE TO THE SATISFACTION OF THE DEPARTMENT**
7 **THAT THE PROGRAM INCLUDES REASONABLE STANDARDS AND PROCEDURES TO**
8 **PROTECT AND PRESERVE ROADSIDE TREES.**

9 **(4) (I) A PERSON WHO REMOVES A SPECIFIC ROADSIDE TREE OR**
10 **GROUP OF ROADSIDE TREES SHALL REPLACE THE TREE OR TREES WITH A SPECIES**
11 **OF TREE OR TREES, WITHIN THE TIME FRAME, AND IN A LOCATION AS APPROVED IN**
12 **THE PERMIT.**

13 **(II) A PERSON WHO ADMINISTERS A PROGRAM OF GENERAL**
14 **TREE CARE UNDER A PERMIT SHALL ENSURE THAT ANY ROADSIDE TREE THAT IS**
15 **REMOVED UNDER THE PERMIT IS REPLACED CONSISTENT WITH THE PERMIT.**

16 **(III) A PERMIT HOLDER MAY NOT BE REQUIRED TO REPLACE A**
17 **REMOVED ROADSIDE TREE UNDER THIS PARAGRAPH IF A REPLACEMENT TREE IS**
18 **REQUIRED TO BE PLANTED UNDER ANOTHER PROVISION OF THIS TITLE.**

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

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

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.**

33 **(e) A person who trims, cuts, removes, or injures a roadside tree in violation of a**
34 **regulation adopted under § 5-402 of this subtitle or a permit issued under this section or**
35 **who fails to obtain a permit as required by this section is liable for the imposition of a**
36 **penalty:**

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

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

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2017.