
By: **Chairman, Environmental Matters Committee (Departmental - Natural Resources)**

Introduced and read first time: February 8, 2002

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources - Tree Experts**

3 FOR the purpose of altering the definition of "tree expert" to require a person who
4 consults on the treatment of, removes, trims, prunes, installs tree support
5 systems in, or fertilizes trees to be licensed and subject to regulations by the
6 Department of Natural Resources; providing exceptions to the licensure
7 requirements for fire fighting activities and certain industries; altering certain
8 application, testing, retesting, and renewal fees for tree expert licenses; altering
9 the requirements for tree expert license applications; altering the penalties and
10 disciplinary action which may be taken by the Department; making certain
11 stylistic changes; and generally relating to tree experts.

12 BY repealing and reenacting, with amendments,
13 Article - Natural Resources
14 Section 5-415, 5-417 through 5-421, and 5-423
15 Annotated Code of Maryland
16 (2000 Replacement Volume and 2001 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article - Natural Resources
19 Section 5-416 and 5-422
20 Annotated Code of Maryland
21 (2000 Replacement Volume and 2001 Supplement)

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

24 **Article - Natural Resources**

25 5-415.

26 (a) In this part, the following words have the meanings indicated.

1 (b) "Licensed tree expert" means a person who has received from the
2 Department a license displaying his qualifications to practice as a tree expert.

3 (c) "Tree expert" means a person who [holds himself out as being]
4 REPRESENTS TO THE PUBLIC THAT THE PERSON IS skilled in the science of tree care
5 OR REMOVAL and who, whether in [his own] THE business OF THE PERSON or as the
6 employee of another person and whether under the title of arborist, tree specialist,
7 tree surgeon, tree expert, or otherwise, engages in the business or work of the
8 treatment, [and] care, OR REMOVAL of trees for compensation by making diagnoses,
9 prescribing, PROVIDING CONSULTATION REGARDING, OR [and] supervising the
10 treatment for trees, OR BY TRIMMING, PRUNING, INSTALLING TREE SUPPORT
11 SYSTEMS IN, OR FERTILIZING TREES.

12 5-416.

13 The Department may examine applicants for licensing as tree experts and pass
14 upon their competence.

15 5-417.

16 (A) A person may not engage in the work or business of a tree expert without
17 a license issued under the provisions of this part, UNLESS THE INDIVIDUAL IS:

18 (1) A NURSERYMAN, DEALER, OR BROKER, AS DEFINED IN § 5-301 OF THE
19 AGRICULTURE ARTICLE, PERFORMING MAINTENANCE AT A PLANT NURSERY;

20 (2) A VOLUNTEER OR PROFESSIONAL FIREFIGHTER ENGAGED IN FIRE
21 SUPPRESSION ACTIVITY;

22 (3) A LICENSED FORESTER ENGAGED IN FORESTRY AS DEFINED IN §
23 7-101 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; OR

24 (4) A LICENSED CONTRACTOR, AS DEFINED IN § 8-101 OF THE BUSINESS
25 REGULATION ARTICLE, ENGAGED IN INSTALLING OR MAINTAINING TREES PLANTED
26 UNDER A CONTRACT GUARANTEE IN ACCORDANCE WITH § 8-101(G)(2)(I) OF THE
27 BUSINESS REGULATION ARTICLE.

28 (B) An employee[,] under the supervision of a licensed tree expert [may] IS
29 not [be] required to have [a license in his own name] AN ADDITIONAL LICENSE IN
30 THE NAME OF THE EMPLOYEE.

31 5-418.

32 (a) The Department may examine an applicant for license as a tree expert and
33 pass upon [his] THE competence OF THE APPLICANT. It shall issue a "tree expert"
34 license to any applicant, who:

35 (1) Pays the fee provided in § 5-419;

36 (2) [Has attained his eighteenth birthday] IS AT LEAST 18 YEARS OLD;

1 (3) (i) Has had 2 years of approved college education in forestry,
2 arboriculture, horticulture, applied agricultural sciences, or the equivalent education
3 and a minimum of 1 year of experience with a licensed tree expert in Maryland or
4 with an acceptable tree expert company in another state; or

5 (ii) For at least 5 years immediately preceding the date of his OR
6 HER application has been engaged continuously in practice as a tree expert with a
7 licensed tree expert in Maryland or with an acceptable tree expert company in
8 another state; and

9 (4) Has passed the examination given by the Department.

10 (b) Every licensee shall PROVIDE PROOF OF COMPLIANCE WITH TITLE 9,
11 SUBTITLE 4 OF THE LABOR AND EMPLOYMENT ARTICLE AND carry and show proof of
12 liability and property damage insurance, in the form and amount required by the
13 Department at the time it issues the license. The licensee shall maintain the
14 insurance protection for the period the license is in effect.

15 5-419.

16 (a) An applicant shall pay to the Department at the time of making his OR
17 HER application, a fee of [~~\$30~~] \$50. An applicant who fails any examination[,] shall
18 pay an additional fee of [~~\$20~~] \$30 for each subsequent examination [he] THE
19 APPLICANT takes.

20 (b) A tree expert license shall be renewed [annually] PRIOR TO EXPIRATION.
21 A person who holds a license and wishes to renew it shall pay a [~~\$10 annual~~] \$40
22 renewal fee. A LICENSEE WISHING TO RENEW A LICENSE SHALL PROVIDE TO THE
23 DEPARTMENT:

24 (1) PROOF OF ATTENDANCE AT SEMINARS, CONFERENCES, OR OTHER
25 TRAINING PROGRAMS AS REQUIRED BY THE DEPARTMENT AND SHALL SUBMIT THE
26 DOCUMENTATION BY JANUARY 1 OF EACH YEAR LICENSED; AND

27 (2) PROOF OF COMPLIANCE WITH TITLE 9, SUBTITLE 4 OF THE LABOR
28 AND EMPLOYMENT ARTICLE AND PROOF OF LIABILITY AND PROPERTY DAMAGE
29 INSURANCE IN THE FORM AND AMOUNT REQUIRED BY THE DEPARTMENT. THE
30 LICENSEE SHALL MAINTAIN THE INSURANCE PROTECTION FOR THE PERIOD THE
31 LICENSE IS IN EFFECT.

32 (c) Fees the Department receives shall be paid into the State Treasury for the
33 Department's use. The Secretary shall prepare an annual report on the number of
34 licenses issued and the receipts and expenses under Part III of this subtitle during
35 each fiscal year.

36 5-420.

37 The Department shall prepare and conduct examinations as often as necessary,
38 but at least once a year if there are any applicants. A candidate who has passed the
39 examination in all but one of the subjects given may be reexamined in that subject

1 only at any subsequent examination held[,] WITHIN 1 YEAR OF THE DATE THE
2 CANDIDATE TOOK THE INITIAL EXAMINATION [and if he passes that subject he is
3 considered to have passed the examination]. A CANDIDATE IS CONSIDERED TO HAVE
4 PASSED THE EXAMINATION IF ALL SUBJECT AREAS ARE PASSED WITHIN 1 YEAR OF
5 THE DATE THE CANDIDATE TOOK THE INITIAL EXAMINATION. The Department,
6 however, may decide to reexamine an unsuccessful candidate in every subject.

7 5-421.

8 (a) The Department may [permanently revoke or temporarily suspend the
9 license of any licensed tree expert] REPRIMAND ANY LICENSEE, PLACE ANY
10 LICENSEE ON PROBATION, OR SUSPEND OR REVOKE THE LICENSE OF A LICENSEE
11 who is found guilty of any fraud or deceit in obtaining the license, or guilty of
12 negligence or wrongful conduct in the practice of tree culture or care.

13 (b) The Department may promulgate rules of ethics and temporarily suspend
14 for a period not to exceed two years the license of any licensed tree expert who violates
15 the rules of ethics. This power of suspension is in addition to, and not in limitation of,
16 the power to revoke or suspend provided in subsection (a).

17 (c) [A license issued under this subtitle may not be revoked or suspended
18 until after the licensee has a hearing before the Department. Notice] THE
19 DEPARTMENT MAY NOT TAKE ACTION AGAINST A LICENSEE UNDER THIS SUBTITLE
20 UNLESS THE DEPARTMENT PROVIDES THE LICENSEE WITH AN OPPORTUNITY FOR A
21 HEARING. IF A HEARING IS REQUESTED BY THE LICENSEE, NOTICE of the cause for
22 [suspension or revocation] DISCIPLINARY ACTION and the hearing date shall be sent
23 to the licensee at [his] THE LICENSEE'S last known address by registered or certified
24 mail at least 20 days before the hearing. The nonappearance of the licensee after the
25 required notice has been given, does not prevent holding the hearing.

26 (d) A TREE EXPERT LICENSE MAY NOT LAPSE BY OPERATION OF LAW WHILE
27 THE INDIVIDUAL IS UNDER INVESTIGATION OR WHILE CHARGES ARE PENDING.

28 (E) The Department may reissue any tree expert's license previously revoked
29 under rules and regulations it prescribes.

30 5-422.

31 The Department may issue and grant a license to or otherwise authorize the
32 practice as a tree expert in Maryland by any person who is a lawful holder of a tree
33 expert license under the laws of another state which extends similar privileges to
34 licensed tree experts of this State. The requirements for the license in the state which
35 has granted it must be, in the opinion of the Department, at least equivalent to those
36 provided for in Maryland.

37 5-423.

38 (a) A person may not:

1 (1) [solicit] SOLICIT, advertise, or represent [himself] to the public
2 THAT THE PERSON [as] IS a tree expert, or assume to practice as a tree expert
3 without having received a license; [or]

4 (2) [after] AFTER having received the license and subsequently losing it
5 by revocation or suspension, continue to practice as a tree expert[, or]; OR

6 (3) [use] USE the title or abbreviation "L.T.E." or any other words,
7 letters, or abbreviations tending to indicate that [he] THE PERSON is a licensed tree
8 expert or a tree expert without having received a license, or when the license has been
9 revoked or suspended.

10 (b) If the owner of a tree employs any person to trim the tree, the owner is not
11 subject to this penalty.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
13 effect October 1, 2002.