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H.355

Introduced by Representative Sweaney of Windsor

Referred to Committee on

Date:

Subject: Professions and occupations; Secretary of State; Office of
Professional Regulation; regulation of foresters

Statement of purpose of bill as introduced: This bill proposes to require the
Secretary of State's Office of Professional Regulation to license and regulate
foresters.

An act relating to licensing and regulating foresters

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

An Office of Professional Regulation is created within the Office of the
Secretary of State. The Office shall have a director who shall be appointed by
the Secretary of State and shall be an exempt employee. The following boards
or professions are attached to the Office of Professional Regulation:

* * *

1 management. Forestry science consists of those biological, physical,
2 quantitative, managerial, and social sciences that are applied to forest
3 management. Forestry services include investigations, consultations, timber
4 inventory, and appraisal, development of forest management plans, and
5 responsible supervision of forest management or other forestry activities on
6 public or private lands.

7 (B) "Forestry" does not include services for the physical
8 implementation of cutting, hauling, handling, or processing of forest products
9 or for the physical implementation of silvicultural treatments and practices.

10 (5) "License" means a current authorization granted by the Director
11 permitting the practice of forestry pursuant to this chapter.

12 (6) "SAF" means the Society of American Foresters.

13 § 4903. PROHIBITIONS; OFFENSES

14 (a) It shall be a violation of this chapter for any person, including any
15 corporation, association, or individual, to:

16 (1) sell or fraudulently obtain or furnish any forestry degree, diploma,
17 certificate of registration, license, or any other related document or record or to
18 aid or abet in so doing;

19 (2) practice forestry under cover of any degree, diploma, registration,
20 license, or related document or record illegally or fraudulently obtained, or
21 signed or issued unlawfully or under fraudulent representation;

1 (3) practice forestry unless licensed to do so under the provisions of this
2 chapter;

3 (4) represent himself or herself as being licensed in this State to practice
4 forestry or use in connection with a name any words, letters, signs, or figures
5 that imply that a person is a forester when not licensed under this chapter; or

6 (5) practice forestry during the time a license issued under this chapter is
7 suspended or revoked.

8 (b) Any person violating this section shall be subject to the penalties
9 provided in 3 V.S.A. § 127.

10 § 4904. EXEMPTIONS

11 This chapter does not prohibit:

12 (1) A person, business organization, or college or university in this State
13 from practicing forestry on his, her, or its own lands.

14 (2) The practice of any other occupation or profession by a person duly
15 licensed or otherwise authorized under the laws of this State.

16 (3) The carrying out of forest practices as an employee of a licensed
17 forester when acting under the direct supervision of that licensed forester. As
18 used in this subdivision, “direct supervision” means the licensed forester must
19 be on-site and present where the forest practices are provided, is immediately
20 available to the person being supervised, and maintains continued involvement
21 in the aspects of each forest practice performed by the person being supervised.

1 matters relating to forestry. One of the initial appointments shall be for less
2 than a five-year term.

3 (2) An appointee shall have not less than five years' experience as a
4 forester immediately preceding appointment; shall be licensed as a forester in
5 Vermont; and shall be actively engaged in the practice of forestry in this State
6 during incumbency.

7 (b) The Director shall seek the advice of the forestry advisor appointees in
8 carrying out the provisions of this chapter.

9 Subchapter 3. Licenses

10 § 4921. QUALIFICATIONS FOR LICENSURE

11 Applicants for licensure shall qualify under one of the following paths to
12 licensure:

13 (1) Possession of a bachelor's degree, or higher, in forestry from a
14 program approved by the Director, and passage of the SAF Certified Forester
15 examination.

16 (2) Possession of a bachelor's degree, or higher, in a forestry-related
17 field from a program approved by the Director, satisfactory completion of the
18 SAF Certified Forester experience requirements, and passage of the SAF
19 Certified Forester examination.

20 (3) Possession of an associate degree in forestry from a program
21 approved by the Director, satisfactory completion of the SAF Certified

1 Forester experience requirements, and passage of the SAF Certified Forester
2 examination.

3 (4) Possession of a valid registration or license to engage in the practice
4 of forestry issued by the appropriate regulatory authority of a state, territory, or
5 possession of the United States, or the District of Columbia, based on
6 requirements and qualifications shown by the application to be equal to or
7 greater than the requirements of this chapter. Such an applicant may be
8 examined on forestry matters peculiar to Vermont and may be granted a
9 license at the discretion of the Director.

10 § 4922. APPLICATIONS FOR LICENSURE

11 Applications for licensure shall be on forms provided by the Director. Each
12 application shall contain a statement under oath showing the applicant's
13 education, forestry experience, and other pertinent information required by the
14 Director. Applications shall be accompanied by the required fee.

15 § 4923. ISSUANCE OF LICENSES

16 The Director shall issue a license, upon payment of the fees prescribed in
17 this chapter, to any applicant who has satisfactorily met all the requirements of
18 this chapter.

19 § 4924. RENEWALS

20 (a) Licenses shall be renewed every two years upon payment of the
21 renewal fee.

1 (b) Biennially, the Director shall provide notice to each licensee of license
2 expiration and renewal requirements. Upon receipt of the completed form and
3 the renewal fee, the Director shall issue a new license.

4 (c) As a condition of renewal, the Director may require that a licensee
5 establish that he or she has completed continuing education, as approved by the
6 Director, not to exceed 12 hours for each two-year renewal period.

7 (d) The Director may reinstate the license of an individual whose license
8 has expired upon payment of the required fee and reinstatement penalty,
9 provided the individual has satisfied all the requirements for renewal, including
10 continuing education.

11 § 4925. LICENSE AND RENEWAL FEES

12 Applicants and persons regulated under this chapter shall pay those fees set
13 forth in 3 V.S.A. § 125(b).

14 § 4926. UNPROFESSIONAL CONDUCT

15 (a) The Director may deny an application for licensure or relicensure;
16 revoke or suspend any license to practice forestry issued under this chapter; or
17 discipline or in other ways condition the practice of a licensee upon due notice
18 and opportunity for hearing in compliance with the provisions of
19 3 V.S.A. chapter 25 if the person engages in the following conduct or the
20 conduct set forth in 3 V.S.A. § 129a:

1 (1) has made or caused to be made a false, fraudulent, or forged
2 statement or representation in procuring or attempting to procure registration
3 or renew a license to practice forestry;

4 (2) whether or not committed in this State, has been convicted of a
5 crime related to the practice of forestry or a felony that evinces an unfitnes to
6 practice forestry;

7 (3) is unable to practice forestry competently by reason of any cause;

8 (4) has willfully or repeatedly violated any of the provisions of this
9 chapter;

10 (5) is habitually intemperate or is addicted to the use of habit-forming
11 drugs;

12 (6) has a mental, emotional, or physical disability, the nature of which
13 interferes with the ability to practice forestry competently;

14 (7) engages in conduct of a character likely to deceive, defraud, or harm
15 the public; or

16 (8) aiding, abetting, encouraging, or negligently causing a violation of
17 the statutes or rules of the Vermont Department of Forests, Parks and
18 Recreation.

19 (b) Any person or institution aggrieved by any action of the Director under
20 this section may appeal as provided in 3 V.S.A. § 130a.

1 (c) A person shall not be liable in a civil action for damages resulting from
2 the good faith reporting of information to the Director about incompetent,
3 unprofessional, or unlawful conduct of a forester.

4 Sec. 3. TRANSITIONAL PROVISION; ADVISORS; LICENSING OF
5 CURRENT FORESTERS

6 (a) Advisor appointees. Notwithstanding the provision of 26 V.S.A.
7 § 4912 (advisor appointees) in Sec. 2 of this act that requires an appointee to
8 be licensed as a forester in Vermont, an initial advisor appointee may be in the
9 process of applying for licensure if he or she otherwise meets the requirements
10 for licensure as a forester and the other requirements of 26 V.S.A. § 4912.

11 (b) Licensing of current foresters.

12 (1) The Director of the Office of Professional Regulation shall establish
13 a procedure so that an individual may become licensed as a forester without
14 being required to take an examination if he or she:

15 (A) possesses one of the degrees described in 26 V.S.A.
16 § 4921(1)–(3) (qualifications for licensure) in Sec. 2 of this act; and

17 (B) can establish a record of forestry practice of at least eight years of
18 experience within the last 10 years prior to the effective date of Sec. 2 of
19 this act.

20 (2) In addition to the ability of an individual to become licensed under
21 subdivision (1) of this subsection, an individual shall be eligible for licensure

1 as a forester without being required to take an examination if he or she is a
2 Certified Forester through the Society of American Foresters.

3 (3) Any person licensed under this subsection shall thereafter be eligible
4 for licensure renewal pursuant to 26 V.S.A. § 4924.

5 (4) The ability of a person to become licensed under the provisions of
6 this subsection shall expire on January 1, 2017.

7 Sec. 4. EFFECTIVE DATES

8 This act shall take effect on passage, except that Secs. 1 (amending
9 3 V.S.A. § 122) and 2 (adding 26 V.S.A. chapter 95) shall take effect on
10 January 1, 2016.