

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was referred House
3 Bill No. 355 entitled “An act relating to licensing and regulating foresters”
4 respectfully reports that it has considered the same and recommends that the
5 Senate propose to the House that the bill be amended by striking out all after
6 the enacting clause and inserting in lieu thereof the following:

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

8 § 122. OFFICE OF PROFESSIONAL REGULATION

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

13 * * *

14 (35) ~~[Repealed.]~~ Foresters

15 * * *

16 Sec. 2. 26 V.S.A. chapter 95 is added to read:

17 CHAPTER 95. FORESTERS

18 Subchapter 1. General Provisions

1 § 4901. PURPOSE AND EFFECT

2 In order to implement State policy and safeguard the public welfare, a
3 person shall not engage in the practice of forestry unless currently licensed
4 under this chapter.

5 § 4902. DEFINITIONS

6 As used in this chapter:

7 (1) “Director” means the Director of the Office of Professional
8 Regulation.

9 (2) “Disciplinary action” means any action taken against a licensee for
10 unprofessional conduct.

11 (3) “Forester” means a person who is licensed to practice forestry under
12 this chapter.

13 (4)(A) “Forestry” means the science, art, and practice of creating,
14 managing, using, and conserving forests and associated resources to meet
15 desired goals, needs, and values, including timber management, wildlife
16 management, biodiversity management, and watershed management. Forestry
17 science consists of those biological, physical, quantitative, managerial, and
18 social sciences that are applied to forest management. Forestry services
19 include investigations, consultations, timber inventory, and appraisal,
20 development of forest management plans, and responsible supervision of forest
21 management or other forestry activities on public or private lands.

1 (B) “Forestry” does not include services for the physical
2 implementation of cutting, hauling, handling, or processing of forest products
3 or for the physical implementation of silvicultural treatments and practices.

4 (5) “License” means a current authorization granted by the Director
5 permitting the practice of forestry pursuant to this chapter.

6 (6) “SAF” means the Society of American Foresters.

7 § 4903. PROHIBITIONS; OFFENSES

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

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

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

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

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

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

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

5 § 4904. EXEMPTIONS

6 This chapter does not prohibit:

7 (1) An individual or a college or university in this State from practicing
8 forestry on his, her, or its own lands.

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

11 (3) The carrying out of forest practices as an employee of a forester
12 when acting under the general supervision of that forester. As used in this
13 subdivision, “general supervision” means the forester need not be on-site when
14 the employee provides the forest practices, but shall maintain continued
15 involvement in and accept professional responsibility for the aspects of each
16 forest practice the employee performs.

17 (4) Unlicensed professional activities within or relating to forests, if
18 such activities do not involve the application of forestry principles or judgment
19 and do not require forestry education, training, and experience to ensure
20 competent performance.

1 Subchapter 2. Administration

2 § 4911. DUTIES OF THE DIRECTOR

3 (a) The Director shall:

4 (1) provide general information to applicants for licensure as foresters;

5 (2) receive applications for licensure and provide licenses to applicants
6 qualified under this chapter;

7 (3) provide standards and approve education programs for applicants
8 and for the benefit of foresters who are reentering practice following a lapse of
9 five or more years;

10 (4) administer fees as established by law;

11 (5) refer all disciplinary matters to an administrative law officer;

12 (6) renew, revoke, and reinstate licenses as ordered by an administrative
13 law officer; and

14 (7) explain appeal procedures to licensed foresters and to applicants, and
15 complaint procedures to the public.

16 (b) The Director may adopt rules necessary to perform his or her duties
17 under this section.

18 § 4912. ADVISOR APPOINTEES

19 (a)(1) The Secretary of State shall appoint three foresters for five-year
20 staggered terms to serve at the Secretary's pleasure as advisors in matters

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

3 (2) An appointee shall have not less than ten 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, satisfactory completion of two years of the
15 SAF Certified Forester experience requirements, and passage of the SAF
16 Certified Forester examination, which may include a State portion if required
17 by the Director by rule.

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

1 of the SAF Certified Forester examination, which may include a State portion
2 if required by the Director by rule.

3 (3) Possession of an associate degree in forestry from a program
4 approved by the Director, satisfactory completion of four years of the SAF
5 Certified Forester experience requirements, and passage of the SAF Certified
6 Forester examination, which may include a State portion if required by the
7 Director by rule.

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

15 § 4922. APPLICATIONS FOR LICENSURE

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

1 § 4923. ISSUANCE OF LICENSES

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

5 § 4924. RENEWALS

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

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

11 (c) As a condition of renewal, the Director shall require that a licensee
12 establish that he or she has completed continuing education, as approved by the
13 Director, of 24 hours for each two-year renewal period.

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

18 § 4925. LICENSE AND RENEWAL FEES

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

1 § 4926. UNPROFESSIONAL CONDUCT

2 (a) The Director may deny an application for licensure or relicensure;
3 revoke or suspend any license to practice forestry issued under this chapter; or
4 discipline or in other ways condition the practice of a licensee upon due notice
5 and opportunity for hearing in compliance with the provisions of
6 3 V.S.A. chapter 25 if the person engages in the following conduct or the
7 conduct set forth in 3 V.S.A. § 129a:

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

11 (2) whether or not committed in this State, has been convicted of a
12 crime related to the practice of forestry or a felony that evinces an unfitness to
13 practice forestry;

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

15 (4) has willfully or repeatedly violated any of the provisions of this
16 chapter;

17 (5) is habitually intemperate or is addicted to the use of habit-forming
18 drugs capable of impairing the exercise of professional judgment;

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

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

3 (8) aiding, abetting, encouraging, or negligently causing a violation of
4 the statutes or rules of the Vermont Department of Forests, Parks and
5 Recreation.

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

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

11 Sec. 3. TRANSITIONAL PROVISIONS; ADVISOR APPOINTEES;

12 LICENSING OF CURRENT FORESTERS

13 (a) Advisor appointees. Notwithstanding the provision of 26 V.S.A.
14 § 4912 in Sec. 2 of this act that requires an advisor appointee to be a licensed
15 forester in Vermont, an initial advisor appointee may be in the process of
16 applying for licensure as a forester in this State if he or she otherwise is
17 eligible for licensure as a forester under this act.

18 (b) Licensing of current foresters.

19 (1) The Director of the Office of Professional Regulation shall establish
20 a procedure whereby an individual who can demonstrate a record of full-time

1 forestry practice for at least eight of the ten years immediately preceding the
2 effective date of Sec. 2 of this act may become licensed as a forester:

3 (A) without examination, if he or she possesses one of the degrees
4 described in 26 V.S.A. § 4921(1)–(3) (qualifications for licensure) in Sec. 2 of
5 this act;

6 (B) without possessing a degree described in 26 V.S.A.
7 § 4921(1)–(3) in Sec. 2 of this act, if he or she passes the Society of American
8 Foresters (SAF) Certified Forester Examination, which may include a State
9 portion if required by the Director by rule; or

10 (C) without examination or possession of one of the degrees
11 described in 26 V.S.A. § 4921(1)–(3) in Sec. 2 of this act, if he or she is
12 determined by the Director, after due consultation with the advisor appointees,
13 to have demonstrated through a peer-review process and production of such
14 documentation as the Director may require, that he or she possesses forestry
15 competencies commensurate to those of an individual eligible for licensure
16 pursuant to Sec. 2 of this act.

17 (2) In addition to the ability of an individual to become licensed as a
18 forester under the provisions of subdivision (1) of this subsection, an
19 individual shall be eligible for expedited licensure if he or she is an SAF
20 Certified Forester, active and in good standing.

1 (3) Any person licensed under this section shall thereafter be eligible for
2 license renewal pursuant to 26 V.S.A. § 4924.

3 (4) The ability of a person to become licensed under the provisions of
4 this section shall expire on January 1, 2018.

5 Sec. 4. EFFECTIVE DATES

6 This act shall take effect on passage, except that Secs. 1 (amending
7 3 V.S.A. § 122) and 2 (adding 26 V.S.A. chapter 95) shall take effect on
8 July 1, 2016.

9
10
11 (Committee vote: _____)

12 _____

13 Senator _____

14 FOR THE COMMITTEE