

SENATE No. 449

To accompany the petition of the Massachusetts Tree Wardens and Foresters Association, by William E. Gullam, that provision be made for the establishment of a Board of Registration of Arborists and regulating the business of arboriculture. State Administration.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-Nine.

AN ACT ESTABLISHING A BOARD OF REGISTRATION OF ARBORISTS AND REGULATING THE BUSINESS OF ARBORICULTURE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 13 of the General Laws is
2 hereby amended by inserting after section 47, the
3 following 3 new sections, under the following cap-
4 tion:—

5 BOARD OF REGISTRATION OF ARBORISTS.

6 *Section 48.* There shall be a board of registration
7 of arborists in this section and in sections forty-nine
8 and fifty called the board, consisting of five arborists,
9 citizens of the United States and residents of the
10 commonwealth, appointed by the governor, with the
11 advice and consent of the council, each of whom
12 shall have been actively engaged in the practice of

13 arboriculture for at least ten years, and shall have
14 been in responsible charge of important arboricul-
15 ture work, or shall have taught arboriculture or
16 associated subjects for at least five years. Upon the
17 initial appointment, one member shall be appointed
18 to serve for five years, one for four years, one for
19 three years, one for two years and one for one year,
20 and thereafter appointments shall be for a term of
21 five years. One member of the board shall be an
22 entomologist and one member shall be a plant
23 pathologist. The governor shall designate the
24 chairman of the board.

25 *Section 49.* The board shall hold at least one
26 meeting in each year, and may hold special meetings
27 at such time and place as it shall by rule prescribe.
28 Notice of all such meetings shall be given in the
29 manner provided by such rules. The board shall
30 annually choose, from its members, a vice-chairman
31 and a secretary.

32 *Section 50.* The members of the board shall re-
33 ceive no compensation, but each member shall
34 receive from the commonwealth the expenses neces-
35 sarily incurred by him in connection with his official
36 duties. The expenses of the board shall not in any
37 year be in excess of the annual receipts for examina-
38 tions and registrations and from other sources paid
39 to the commonwealth by the board for the purposes
40 of sections eighty-one R to eighty-one II of chapter
41 one hundred and twelve.

1 SECTION 2. Chapter 112 of the General Laws is
2 hereby amended by inserting after section 81Q, the
3 following 18 new sections under the following
4 heading:

5

REGISTRATION OF ARBORISTS.

6 *Section 81R.* The following words and phrases
7 as used in sections eighty-one R to eighty-one II,
8 inclusive, shall, unless the context otherwise requires,
9 have the following meanings:

10 "Board", the board of registration of arborists
11 established by section forty-eight of chapter thirteen.

12 "Arborist", any person engaging in the care of
13 shade and ornamental trees as a business; large
14 tree moving; diagnosis and treatment of tree diseases,
15 defects, and mechanical injuries; identification and
16 control of tree insect pests, and diseases; fertilizing;
17 pruning and repair of storm or otherwise damaged
18 trees; and removal of dead or undesirable trees.

19 *Section 81S.* The board shall examine applicants
20 for registration as arborists. It shall make such
21 rules and regulations as are necessary or proper for
22 the conduct of its duties.

23 *Section 81T.* The secretary of the board shall
24 receive and account for all moneys received under
25 sections eighty-one R to eighty-one II, inclusive,
26 of this chapter, and shall pay the same to the state
27 treasurer. Said secretary shall give to the state
28 treasurer a bond in such sum and with such sureties
29 as may from time to time be required by the board
30 under authority of law, for the faithful performance
31 of his duties.

32 *Section 81U.* The board may employ such clerical
33 and other assistance as may be necessary for the
34 proper performance of its work.

35 *Section 81V.* The board shall keep a full record
36 of its proceedings and a register of applications for
37 registration, which register shall show (a) the name,

38 age and residence of each applicant; (b) the date
39 of application; (c) the place of business of such
40 applicant; (d) his educational and other qualifica-
41 tions; (e) whether or not an examination was re-
42 quired; (f) whether the applicant was rejected;
43 (g) whether a certificate of registration was granted;
44 (h) the date of action of the board; and (i) such
45 other information as may be deemed necessary by
46 the board; such register shall be open to public
47 inspection.

48 The records of the board shall be prima facie
49 evidence of the proceedings of the board set forth
50 therein, and a transcript thereof duly certified by
51 the secretary of the board, shall be admissible in
52 evidence with the same force and effect as if the
53 original were produced.

54 The board shall make an annual report to the
55 governor, which shall include an itemized statement
56 of all receipts and expenses of the board for the year.

57 *Section 81W.* The secretary of the board shall
58 annually in the month of September in each year
59 prepare a list of the names and places of business
60 of all registered arborists. Copies of such list shall
61 be mailed to each person so registered, and placed
62 on file with the secretary of state and furnished by
63 him to any person upon request.

64 *Section 81X.* The board shall prescribe the
65 minimum requirements for registration as an arborist.
66 Such requirements shall be published and furnished
67 to any person upon request.

68 *Section 81Y.* The registration fee for arborists
69 shall be _____ dollars which shall accompany
70 the application. If in the opinion of the board the
71 applicant is not qualified for registration, no part
72 of the registration fee shall be refunded to him.

73 *Section 81Z.* When oral or written examinations
74 are required, they shall be held at such time and
75 place as the board shall determine. A candidate
76 failing on his first examination, upon application
77 therefor not less than six months thereafter, shall
78 be entitled to be re-examined without payment of
79 any additional fee, but no subsequent examination
80 of the same candidate shall be given except upon the
81 payment of a fee of _____ dollars.

82 *Section 81AA.* The board shall issue a certificate
83 of registration upon payment of the fee prescribed
84 in section eighty-one Z to any applicant, who, in
85 the opinion of the board, has satisfactorily met all
86 the requirements provided by the said board. The
87 certificate shall authorize the use of the title "Reg-
88 istered Arborist". Certificates of registration shall
89 set forth the full name of the registrant, shall bear a
90 serial number, and shall be signed by the chairman
91 and secretary of the board.

92 The issuance of a certificate of registration by the
93 board shall be prima facie evidence that the person
94 named therein is entitled to all the rights and priv-
95 ileges of a registered arborist while such certificate
96 remains unrevoked or unexpired.

97 *Section 81BB.* Certificates of registration shall
98 expire on the last day of the month of June next
99 following their issuance or renewal, but may be
100 renewed upon the payment of a fee of _____
101 dollars. The secretary of the board, shall, at least
102 one month before said expiry date, notify the regis-
103 trant of such expiry date and of the fee required for
104 the renewal certificate.

105 *Section 81CC.* The board may revoke the certifi-
106 cate of registration of any registrant who is found
107 guilty of:—

108 (a) The practice of any fraud or deceit in obtain-
109 ing a certificate of registration; or

110 (b) Any gross negligence, incompetency or mis-
111 conduct in conducting the business of arboriculture
112 or any division of such business.

113 Any person may prefer charges of fraud, gross
114 negligence, incompetency or misconduct against
115 any registrant. Such charges shall be in writing
116 and sworn to by the complainant and filed with the
117 secretary of the board.

118 Upon receipt of such charges, the board shall
119 appoint a time and designate a place for a hearing
120 which shall be held within three months after the
121 date of the receipt of such charges. Notice of such
122 hearing shall be given the registrant complained
123 against with a copy of such charges. Such registrant
124 shall have the right to appear personally and by
125 counsel to examine and cross-examine witnesses,
126 and to present evidence in his own behalf. Upon a
127 finding by a majority of the board that the charges
128 preferred have been sustained, the certificate of
129 such registrant shall be suspended or revoked.

130 *Section 81DD.* The board may reissue a certifi-
131 cate of registration to any person whose certificate
132 has been suspended or revoked, or has expired, if a
133 majority of the members thereof shall so vote, and
134 upon the payment of _____ dollars.

135 *Section 81EE.* No person shall represent him-
136 self as, or use the title "registered arborist" or use
137 the word "registered" in combination with any
138 word which may indicate specialized knowledge of
139 the trimming, pruning and removal of shade and
140 ornamental trees and protection from damage by
141 insects, animals or disease of such trees, unless he

142 is registered under the provisions of sections eighty-
143 one R to eighty-one II of this chapter.

144 *Section 81FF.* Any person aggrieved by any action
145 of the board in refusing to grant, or in suspending
146 or revoking a certificate of registration may, within
147 fifteen days after the receipt of notification by
148 the board of such action, appeal to the superior
149 court for the county wherein he resides, and after a
150 hearing, said court shall make such order or decree
151 as it deems proper in sustaining or reversing in
152 whole or in part the decision of the board, and its
153 decision shall be final.

154 *Section 81GG.* Upon the initial appointment of
155 the members of the board, such members shall
156 become registered arborists, and certificates of
157 registration shall be issued to them by the chair-
158 man and secretary of the board. Within thirty
159 days after the qualification of the members so
160 initially appointed, the board shall hold a meeting
161 for organization and other purposes.

162 *Section 81HH.* Whoever holds himself out as a
163 registered arborist without being registered as pro-
164 vided by sections eighty-one R to eighty-one II,
165 inclusive, of this chapter, or whoever presents or
166 attempts to use as his own the certificate of registra-
167 tion of any other person, or who gives or offers false
168 or fraudulent evidence to the board or any member
169 thereof for the purpose of obtaining for any person a
170 certificate of registration, or whoever impersonates
171 any person registered under said sections or whoever
172 attempts to use or uses a certificate of registration
173 which has expired or has been revoked, or whoever
174 violates any provision of said sections shall be pun-
175 ished by a fine of not more than one hundred dollars.

176 *Section 81III.* The board may issue a certificate
177 of registration to any corporation engaged in the
178 business of arborist; provided that officers of said
179 corporation shall be registered arborists under the
180 provisions of this chapter; and provided further,
181 that all work done on trees shall be performed by a
182 registered arborist or under the control of a registered
183 arborist.

1 SECTION 3. At any time within two years after
2 the date of the first meeting of the board, upon ap-
3 plication therefor and the payment of a fee of
4 dollars, the board shall issue, without oral
5 or written examination, a certificate of registration
6 to any arborist who shall under oath submit evi-
7 dence satisfactory to the board that he is qualified
8 by training and experience to be a registered arborist
9 and has been a resident of Massachusetts for at
10 least one year immediately preceding the effective
11 date of this act. Members of the faculty of Massa-
12 chusetts state college or other recognized college or
13 university and resident of Massachusetts teaching
14 or lecturing on the subjects of arboriculture or allied
15 subjects, or persons associated with the agricultural
16 experiment station at said college and specializing
17 in arboriculture and allied subjects shall be eligible
18 for registration as arborists.

19 The board may, within the aforesaid period and
20 upon the payment of a fee of dollars,
21 issue limited certificates of registration to any person
22 who was engaged on the effective date of this act in
23 any one of the several divisions of the business of
24 arboriculture as set forth in the definition of the
25 word "arborist" appearing in section eighty-one R of

26 chapter one hundred and twelve inserted by section
27 two of this act. An applicant for such limited
28 registration shall submit to the board such evidence
29 as it may require that he is qualified by training and
30 experience to be so registered, and has been a resi-
31 dent of this commonwealth for at least one year im-
32 mediately preceding the effective date of this act.
33 The board shall designate in such certificate the
34 division under which he is registered, and an appro-
35 priate title, so that the registrant may be readily
36 distinguished from a "registered arborist". Any per-
37 son so registered shall in all other respects be subject
38 to the provisions of sections eighty-one R to eighty-
39 one II of chapter one hundred and twelve.

40 Any person qualified for registration or limited
41 registration, but who is unable to make application
42 therefor within the time provided in this section by
43 reason of his being in the armed service of the United
44 States, may make application for such registration
45 at any time within two years after being honorably
46 discharged from such service.



