

HOUSE . . . . . No. 656.

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[Bill accompanying the petition of the Massachusetts Forestry Association. Agriculture.]

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Commonwealth of Massachusetts.

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In the Year One Thousand Eight Hundred and Ninety-nine.

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AN ACT

To Codify and Amend the Laws Relating to the Preservation of Trees.

*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. Every town shall, at its annual meeting  
2 for the election of town officers, elect a tree warden, who  
3 shall serve for one year and until his successor shall  
4 have been elected and have qualified. He may designate  
5 and appoint such deputy tree wardens as in his judgment  
6 is expedient, and may at any time remove the same.  
7 He and his deputies shall receive such compensation for  
8 his and their services as the town may determine, and, in  
9 default of such determination, as the selectmen may pre-  
10 scribe. He shall have full care and control of all public

11 shade trees in the town, except those in public parks or  
12 open places under the jurisdiction of park commissioners,  
13 and of these, also, he shall have full care and control if  
14 so requested in writing by the park commissioners. He  
15 shall expend all funds appropriated for the setting out  
16 and maintenance of such trees. He may prescribe such  
17 reasonable regulations for the care and preservation of  
18 such trees, and also of all other roadside plants, enforced  
19 by suitable fines and forfeitures not exceeding twenty  
20 dollars in any one case, as he may deem expedient;  
21 which regulations, when approved by the selectmen of  
22 the town, and posted in two or more public places in  
23 said town, shall have the force and effect of town by-laws.  
24 It shall be his duty to enforce the provisions of the laws  
25 for the preservation of such trees.

1 SECTION 2. Towns are authorized to appropriate  
2 annually a sum of money not exceeding, in the aggre-  
3 gate, fifty cents for each of its ratable polls in the  
4 preceding year, to be expended by the tree warden in  
5 planting shade trees in the public ways, or, if he deems  
6 it expedient, upon adjoining land, at a distance not ex-  
7 ceeding twenty feet from said public ways, for the pur-  
8 pose of shading or ornamenting the same: *provided*,  
9 that the written consent of the owner of said land shall  
10 be first obtained. All shade trees within the limits of  
11 any public way shall be deemed public shade trees.

1 SECTION 3. Whoever, other than a tree warden or  
2 his deputy, shall desire the cutting or removal, in whole  
3 or in part, of any public shade tree, shall make applica-  
4 tion in writing to the tree warden, who shall thereupon  
5 post notices in two or more public places in said town  
6 and also on said tree, of a public hearing thereon at

7 some suitable time and place. If the tree warden deems  
8 it for the best interests of the town to remove any live  
9 public shade tree, he may do so only after calling a  
10 hearing as prescribed in the first part of this section.  
11 The decision of the tree warden shall be final.

1 SECTION 4. Towns may annually raise and appro-  
2 priate such sum of money as they may deem necessary  
3 to be expended under the direction of the tree warden  
4 in exterminating insect pests within the limits of their  
5 public ways and places, and in the removal from said  
6 public ways and places of all trees and other plants upon  
7 which such pests naturally breed: *provided, however,*  
8 that where an owner or lessee of real estate shall, to  
9 to the satisfaction of the tree warden, annually exter-  
10 minate all insect pests from the trees and other plants  
11 within the limits of any public way or place abutting on  
12 said real estate, such trees and plants shall be exempt  
13 from the provisions of this section.

1 SECTION 5. Whoever affixes to any tree in a public  
2 way or place a playbill, picture, announcement, notice,  
3 advertisement, or other thing, whether in writing, or  
4 otherwise, or cuts, paints, or marks on such tree, except  
5 for the purpose of protecting such tree and under a writ-  
6 ten permit from the tree warden, shall be punished by  
7 fine not exceeding fifty dollars for each offence.

1 SECTION 6. Whoever wantonly injures, defaces, tears,  
2 or destroys an ornamental or shade tree within the limits  
3 of any public way or place shall forfeit not less than five  
4 nor more than one hundred dollars, to be recovered by  
5 complaint; one-half to the complainant, and the other  
6 half to the use of the town.

1 SECTION 7. Whoever negligently or carelessly suffers  
2 a horse or other beast driven by or for him, or a beast  
3 belonging to him and lawfully in a public way or place,  
4 to break down, destroy, or injure a shade or ornamental  
5 tree within the limits of said public way or place, or  
6 negligently or wilfully by any other means breaks down,  
7 destroys, or injures any such tree, shall be liable to the  
8 penalties prescribed in the foregoing section, and shall,  
9 in addition, be liable for all damages caused thereby.

1 SECTION 8. It shall be the duty of the tree warden  
2 to enforce the provisions of the preceding sections.

1 SECTION 9. In all towns, it shall be the duty of the  
2 selectmen, within thirty days after the passage of this  
3 act and thereafter annually, in March or April, to ap-  
4 point a chief forest fire ward, and they may, in their  
5 discretion, at any time remove him from said office, and  
6 shall fill any vacancy in the same within ten days from  
7 such removal.

1 SECTION 10. The chief forest fire ward shall appoint  
2 such deputy forest fire wards as he shall deem expe-  
3 dient, and may at any time remove them from office and  
4 appoint others in their places. He shall designate one  
5 among such deputies to be an assistant chief, and may at  
6 any time revoke such designation. The chief forest fire  
7 ward shall have, when present thereat, sole control of  
8 the management of any fire which may occur in wood-  
9 lands within the limits of his town, and may direct such  
10 back fires to be set and maintained and such other pre-  
11 cautions to be taken to prevent the spread of such fire  
12 as he may judge necessary or expedient. In the absence  
13 of the chief, his powers and duties shall devolve upon

14 the assistant chief; if neither the chief nor assistant  
15 chief shall be present, they shall devolve upon the deputy  
16 who first gets to the scene of the fire.

1 SECTION 11. The chief forest fire ward shall, on or  
2 before November first of each year, return to the select-  
3 men, to be by them returned to the state fire marshal  
4 annually in the following January, the number of all  
5 forest fires in the town, in which more than an acre is  
6 burned over, together with the names of the owners of  
7 such woodland, the cause or origin of the fire, if known,  
8 the amount of loss or damage, so far as the same may be  
9 estimated, and such other facts concerning the same as  
10 may, in his judgment, be expedient.

1 SECTION 12. The chief and deputy forest fire wards  
2 in any town may, at any time when, in their judgment,  
3 there is danger from a forest fire, call upon any male  
4 person in such town between the ages of eighteen and  
5 fifty to assist in suppressing or preventing such fire, and  
6 may require the use of such wagons, horses, and other  
7 articles of property adapted to that purpose as they may  
8 deem expedient. Each deputy shall keep a correct ac-  
9 count of the time of all persons working and a schedule  
10 of all property used under his direction at any forest fire.

1 SECTION 13. Any person wilfully refusing or neg-  
2 lecting, without good and sufficient cause, to furnish  
3 assistance when called upon under the provisions of the  
4 preceding section, or to allow the use of wagons, horses,  
5 or other articles of property when required as aforesaid,  
6 shall be punished by a fine of not less than five dollars  
7 nor more than one hundred dollars for each offence;  
8 one-half of such fine to be paid to the complainant, and

9 one-half to the town; and may, in addition to such fine,  
10 be imprisoned in the jail or in the house of correction  
11 for a period not exceeding sixty days.

1 SECTION 14. It shall be the duty of said chief forest  
2 fire ward and of his deputies to take precautions to  
3 prevent the improper setting or progress of fires, and  
4 when a fire is observed, immediately to summon such  
5 assistance as may be deemed necessary, to proceed at  
6 once to the scene of the fire, and, if possible, to ex-  
7 tinguish it. They shall cause to be posted at suitable  
8 places warnings against the setting of fires, and a state-  
9 ment of the law relating thereto, such notices to be  
10 printed in large letters, upon cloth, and to be furnished  
11 by the selectmen at the expense of the town. Whoever  
12 wantonly tears down or defaces any notice posted under  
13 this act shall be fined ten dollars.

1 SECTION 15. Compensation shall be made to the  
2 chief forest fire ward and to his deputies and to persons  
3 working under his or their direction at a forest fire, and  
4 for property used under the provisions of section twelve  
5 of this act, at such rates as the town may prescribe, or,  
6 in the absence of action by the town, as the selectmen  
7 may determine. No payment shall be made under this  
8 section until the person claiming compensation shall  
9 have rendered an itemized account, approved by the  
10 chief forest fire ward or by the deputy under whose  
11 direction the work was done or the assistance furnished;  
12 such account to be left on file with the officer making  
13 the payment.

1 SECTION 16. Whoever builds a fire on any lands not  
2 owned or controlled by him shall, before leaving the

3 same, totally extinguish such fire, and, upon failure to  
4 do so, shall be deemed guilty of a misdemeanor, and  
5 shall be punished by a fine not exceeding one hundred  
6 dollars; one-half of such fine to be paid to the com-  
7 plainant, and one-half to the town; or by imprisonment  
8 in the county jail not exceeding one month; or by both  
9 such fine and imprisonment. Whoever wilfully or  
10 negligently sets a fire on any land not owned or con-  
11 trolled by him, whereby property is injured or endan-  
12 gered, or who wilfully or negligently suffers any fire  
13 upon his own land to escape beyond the limits thereof,  
14 to the injury of another, shall be punished by a fine not  
15 exceeding one hundred dollars; one-half of such fine to  
16 be paid to the complainant, and one-half to the town; or  
17 by imprisonment in the county jail not exceeding one  
18 month; or by both such fine and imprisonment; and,  
19 in addition thereto, shall be liable to the person injured  
20 for all damages that may be caused by such fire.

1 SECTION 17. Between the first day of April and the  
2 first day of October in each year, no fire shall be set in  
3 the open air, except upon a written permission of the  
4 chief forest fire ward, or of one of his deputies: *pro-*  
5 *vided*, that the chief forest fire ward may give permis-  
6 sion by posting a notice in three or more public places  
7 that, within certain limits therein stated, such fires may  
8 be set without special permission to each person.  
9 Whoever violates the provisions of this section shall be  
10 punished by a fine not exceeding one hundred dollars;  
11 one-half of such fine to be paid to the use of the com-  
12 plainant, and one-half to the town; or by imprisonment  
13 in the county jail not exceeding one month; or by both  
14 such fine and imprisonment. It shall be the duty of the  
15 chief forest fire ward to cause public notice to be given

16 of the provisions of this section, and he shall see that  
17 the same are enforced; and for any wilful failure so to  
18 do, he shall be himself liable to the penalties provided in  
19 this section. All provisions of law now existing relat-  
20 ing to the illegal burning of property and to the penal-  
21 ties therefor shall continue in force.

1 SECTION 18. Any town may raise and appropriate  
2 for the prevention of forest fires or the spread thereof  
3 such sum as it may deem expedient, not exceeding in  
4 any year one-tenth of one per centum of the assessed val-  
5 uation of such town; such sum, in addition to all fines  
6 received under the provisions of this act, shall be ex-  
7 pended by the chief forest fire ward, under the super-  
8 vision of the selectmen, in trimming out brush from  
9 existing wood roads, not public ways, or in preparing  
10 and preserving suitable lines for back-firing, or in such  
11 other ways as may seem best adapted for preventing or  
12 checking the spread of fires.

1 SECTION 19. Any town may expend any portion of  
2 the sums raised or received under the provisions of the  
3 preceding section in taking, in the name of the town,  
4 such portions of woodland as the selectmen, upon the  
5 recommendation of the chief forest fire ward, may deem  
6 expedient. Such taking, and the payment of damages  
7 for any taking or injuring of property other than by fire  
8 or back-firing or by the taking on the occasion of a  
9 forest fire, of other precautions to prevent the spread of  
10 such fire, shall be governed by the provisions of law re-  
11 lating to the taking of land for highways.

1 SECTION 20. Any constable, police officer, chief  
2 forest fire ward, assistant chief forest fire ward, deputy

3 forest fire ward, tree warden, or deputy tree warden,  
4 may, in his discretion, arrest, without warrant, any per-  
5 son violating a provision of this act, or whom he  
6 suspects of such violation.

1 SECTION 21. All acts or parts of acts inconsistent  
2 with the provisions of this act are hereby repealed:  
3 *provided, however,* that nothing herein contained shall  
4 affect any rights acquired or any civil or criminal prose-  
5 cutions instituted under the provisions of previous laws.

1 SECTION 22. This act shall take effect upon its  
2 passage.





