

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2015

Bill Number: H-355 Name of Bill: An act relating to licensing and regulating foresters

Agency/ Dept: ANR/FPR Author of Bill Review: Jeff Briggs

Date of Bill Review: 03/09/2105 **Related Bills and Key Players:** This bill is indirectly related to several bills from the last couple sessions which have called for raising the standards for excellence in Forestry, and for establishing timber harvesting guidelines which reflect best practices. Excellence in Forestry and best practices are both best accomplished through the use of professionally licensed foresters. Key players are private consulting foresters, the Society of American Foresters, The Forest Guild, the Vermont Woodland Owners Association, and the major environmental/ conservation organizations.

Status of Bill: (check one): Upon Introduction As passed by 1st body As passed by both

Recommended Position:

Support Oppose Remain Neutral Support with modifications identified in #8 below

Analysis of Bill

1. **Summary of bill and issue it addresses.** This bill will require anyone who is practicing professional forestry in Vermont, to be licensed. Currently, anyone can represent themselves as a forester and the public cannot distinguish between differing levels of education and experience, or between a logger who performs "forestry services". The bill would enable the public to know that when they hire a forester they are getting someone who has accepted qualifications. It would establish standards and rules of conduct that would have consequences if violated, up to losing the license. Licensing of foresters is required in many other states.
2. **Is there a need for this bill?** The Office of Professional Regulation heard testimony reflecting both viewpoints. Their process was thorough, well researched and unbiased. Their conclusion was that there is a need and recommended forester licensing. ANR should support this position.
3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?** There will be an upfront first year administrative requirements which will initially be moderate to heavy as current foresters seek licensing, but will tail off to minimal on an ongoing basis because the regulated community is small and turnover is minor. The initial work will involve, establishing and approving standards, reviewing testing requirements, processing applications and fees, administering appeals, and establishing an advisory board. FP&R will have to get its own foresters licensed, which will not be an issue since minimum applications standards for all recent hires are sufficient and longer term employees will meet the experience standards. There will be the cost associated with paying the licensing fee.
4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?** Minimal.
5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** The regulated community, primarily private consultants and businesses that employ foresters working on lands not owned by them, will have small fee impacts as well as time involved in

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the application and/or testing process. Some will see it as over regulation and fear that it might lead to additional regulations, such as a Forest Practices Act. Others will see this as a positive and an opportunity to market them at a higher level of professionalism. The fiscal impact on landowners should be neutral as there is no reason to believe that the number of consultants will shrink or prices they charge go up as a result of this legislation.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why? The US Forest Service, Green Mountain National Forest will likely support this even though it won't impact them because their foresters meet the standards and they work on their own land.

6.2 Who else is likely to oppose the proposal and why? Some of the property rights and smaller government advocates in Vermont will see this as over regulation by the state. In contrast some opposition will be by those who would like to see the bill strengthened, and see it as not strict enough by allowing the exemption for forestry activities on your own land and relatively liberal grandfathering criteria.

7. Rationale for recommendation: FPR has positioned itself as the forestry leader in Vermont and is committed to raising the bar of excellence, sustainability, forest health, stewardship of private and public forests, and best practices for harvesting guidelines, climate change and water quality. Raising the professional level of foresters by moving to licensure would buttress this mission. FP&R remained neutral through the public process conducted by the Office of Professional Regulation, but supports their recommendation to proceed with licensing.

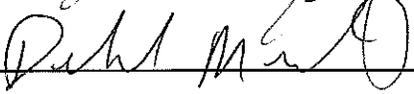
Specific modifications that would be needed to recommend support of this bill: We should support this bill regardless of changes, but there are several areas that ought to be improved. The most important is subsection 4921. QUALIFICATIONS FOR LICENSURE. We may want to recommend that along with the educational requirement that there is a minimum of two years' experience working under the supervision of a licensed forester. Also, Subsection 5§ 4926. UNPROFESSIONAL CONDUCT could be shortened. Several sections seem to have nothing to do with forestry and would be difficult to administer, if not unenforceable. In specific- Section 5) is habitually intemperate or is addicted to the use of habit-forming drugs and (6) has a mental, emotional, or physical disability, the nature of which interferes with the ability to practice forestry competently. Page 3 of 1- Forestry science consists of those biological, physical, quantitative, managerial, and social sciences that are applied to forest management. Forestry services include, but are not necessarily limited to investigations, consultations, timber inventory, and appraisal, development of forest management plans, and responsible supervision of forest management or other forestry activities on public or private lands. Page 4 of 1- The carrying out of forest practices as an employee of a licensed forester when acting under the direct supervision of that licensed forester. As used in this subdivision, "direct supervision" means the licensed forester must be on-site and present where the forest practices are provided, is immediately available to the person being supervised, and maintains continued involvement in the aspects of each forest practice performed by the person being supervised and is fully responsible for all forest practices conducted by any non-licensed employee(s).

Page 9 of 11- (8) aiding, abetting, encouraging, or negligently causing a violation of the statutes, rules or policies of the Vermont Department of Forests, Parks and Recreation. Page 10 of 11- (B) can establish a satisfactory record of forestry practice of at least eight years of experience within the last 10 years prior to the effective date of Sec. 2 of this act. The director shall review any valid claim of improper practice by any forester seeking licensure under this provision and reserves the right to deny a license for just cause.

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8. **Gubernatorial appointments to board or commission?** The advisory board should be representative of the regulated community and include both newer and long term foresters. Recommend adding the State Forester and Extension Forester as ex officia members.

Commissioner has reviewed this document:  Date: 3/31/15

Secretary has reviewed this document:  Date: 4-9-15