

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2016

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

Agency/ Dept: FPR Author of Bill Review: Meghan Purvee, M.C. Snyder

Date of Bill Review: 5/12/16 Related Bills and Key Players: _____

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

Recommended Position:

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

Analysis of Bill

1. Summary of bill and issue it addresses. *Describe what the bill is intended to accomplish and why.*

This bill proposes to create a new chapter 95 of Title 26 that requires that all persons, including a corporation, association or individual, shall not practice forestry unless licensed under chapter 95. There are specific exemptions for land-owners and for loggers who are not required to be licensed. The bill establishes definitions for "forestry," prohibitions and offenses, qualifications for licensure and exemptions. The bill also provides for a transitional process for licensure of currently practicing foresters, and requires appointment of three foresters to serve as advisors to the Secretary of State.

Section by section summary:

Sec.1: amends 3 V.S.A. §122 to include "Foresters" to the list of boards and professions attached to the Office of Professional Regulation in the Office of the Secretary of State

Sec.2: adds new chapter 95 to title 26 as follows:

§4901 – Purpose and Effect

§4902 – Definitions for director, disciplinary action, forester, forestry. License and SAF. "Forestry" is comprehensively defined, but the physical implementation of cutting, hauling, handling and processing of forest products is specifically excluded from the definition of "forestry" for the purposes of licensure requirements.

§4903 – Prohibitions; Offenses: establishes that it is a violation of chapter 95 for any person, corporation, association or individual to sell or fraudulently obtain or furnish a forestry degree, diploma, certificate, registration license or other related document; to practice forestry without a license issued under chapter 95; to practice forestry under cover of any illegally or fraudulently obtained degree, diploma, certificate, registration, license, etc. or to practice forestry when a license has been revoked or suspended.

§4904 – Exemptions: a license is not required for an individual, family, family trust, university, or business to practice forestry on their own lands (no more than 400 acres for a business); an individual practicing under the general supervision of a license forester does not require a license; and persons engaging in activities relating to forests that do not involve the application of forestry principles or judgement are exempt from licensure.

Subchapter 2 Administration

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§4911: The Director of the Office of Professional Regulation is required to provide information regarding the licensure of foresters, to provide standards and approve education programs for applicants; to accept and review applications for licensure; to administer fees; to refer disciplinary matters to an administrative law officer; to renew, revoke, reinstate licenses; and to explain appeal procedures. The Director may adopt rules to implement these duties.

§4912 - Advisor Appointees: the Secretary of State shall appoint three foresters for staggered five year term to advise the Secretary in matters relating to forestry and in carrying out the provisions of chapter 95.

Subchapter 3. Licenses

§4921 – Qualifications for Licensure: Establishes four different paths to qualify for issuance of a license to practice forestry in Vermont:

- 1) Bachelor’s degree or higher in forestry from a program approved by the Director; satisfactory completion of two years of SAF Certified Forester experience; passage of SAF Certified Forester examination and state exam if required;
- 2) Bachelor’s degree or higher in forestry-related field from program approved by Director; satisfactory completion of 3 years of SAF Certified Forester experience requirements and passage of SAF Certified Forester exam;
- 3) Associate degree in forestry from a program approved by the Director; satisfactory completion of four years of SAF Certified Forester experience requirements and passage of SAF Certified Forester exam;
- 4) Valid registration or license to engage in the practice of forestry issued by appropriate authority of another state, possession of the US or District of Columbia based on qualifications that are equal or greater to those in chapter 95. May be subject to an exam on Vermont specific forestry matters.

§4922 – applications shall be on forms provided by the Director, submitted to the Director, showing applicant satisfies licensing requirements and submitted with the required fee.

§4923 – Director shall issue a license when the applicant meets the qualifications and pays the fee.

§4924 – Renewal: licenses must be renewed every two years. Applicant must complete 24 hours of continuing education and pay the license fee.

§4925 – license and renewal fees are set forth in 3 V.S.A. §125(b).

§4926 – Unprofessional conduct: the Director may deny an application for licensure, revoke or suspend a license or discipline or condition the practice of forestry upon due notice and opportunity for hearing in compliance with 3 V.S.A. chapter 25 (administrative procedures, contested case procedure) if the person engages in unprofessional conduct as set for the in 3 V.S.A. §129a or the activities listed in this section which include being convicted of a crime related to the practice of forestry; fraudulent and/or deceptive activities related to forestry or obtaining or attempting to obtain a license to practice; aiding, abetting encouraging or negligently causing a substantial violation of statutes and rules of FPR.

Sec.3 Transitional Provisions

This section provides for the initial appointment of advisors to the Secretary recognizing that an initial advisor may be in the process of applying for a license under these new requirements.

This section requires the Director to establish a procedure as to how to administer issuance of licenses for those currently practicing forestry in Vermont, including those that have been practicing for at least 8 of the previous 10 years – without or with examination depending on the qualifications obtained; establishing an expedited licensing procedure if the person is a SAF Certified Forester.

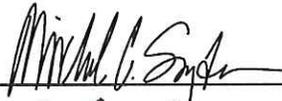
The transitional licensure provisions expire on January 1, 2019.

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Sec. 4: This bill takes effect immediately except that sections 1 and 2 take effect on July 1, 2016.

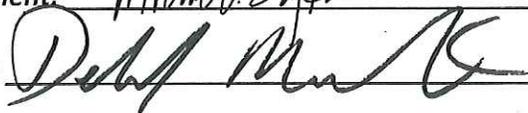
2. **Is there a need for this bill?** *Please explain why or why not.* Yes. The establishment of licensing requirements and professional regulation of the conduct of forestry will ensure that people practicing forestry in the state of Vermont are providing high quality and appropriate services. This will serve to protect landowners and their significant forest resources, both from an economical and natural resource perspective.
3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?**
None. Administered through Secretary of State. FPR foresters will need to be licensed; will be managed similar to other existing licensure requirements for various ANR professionals, e.g., land surveyors, engineers, and attorneys.
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?** The Secretary of State's Office and the Director of Professional Regulation have the duties and responsibilities to implement this new chapter and licensure requirements.
5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *(for example, public, municipalities, organizations, business, regulated entities, etc)*
Very little. Modest licensing/renewal fees for foresters.
6. **Other Stakeholders:**
- 6.1 **Who else is likely to support the proposal and why?** A wide array of affected stakeholders supported this bill, including the Society of American Foresters (both National office and Green Mountain Division), VT Woodlands Association (representing landowners and consulting foresters of Vermont), forestry schools, etc.
- 6.2 **Who else is likely to oppose the proposal and why?** VT Wood Products Association and AIV Forest policy task force opposed (they oppose everything).
7. **Rationale for recommendation:** *Justify recommendation stated above.* See 2 above.
8. **Specific modifications that would be needed to recommend support of this bill:** *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*
None.
9. **Will this bill create a new board or commission AND/OR add or remove appointees to an existing one? If so, which one and how many?** No

Commissioner has reviewed this document:



Date: 5/18/16

Secretary has reviewed this document:



Date: 5-18-16