

1 Introduced by Committee on Government Operations

2 Date:

3 Subject: Professions and occupations; Secretary of State; Office of
4 Professional Regulation; regulation of foresters

5 Statement of purpose of bill as introduced: This bill proposes to require the
6 Secretary of State's Office of Professional Regulation to license and regulate
7 foresters.

8 An act relating to licensing and regulating foresters

9 It is hereby enacted by the General Assembly of the State of Vermont:

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

11 § 122. OFFICE OF PROFESSIONAL REGULATION

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

16 * * *

17 (35) ~~Foresters~~ Foresters

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

CHAPTER 95. FORESTERS

Subchapter 1. General Provisions

§ 4901. PURPOSE AND EFFECT

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

§ 4902. DEFINITIONS

As used in this chapter:

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

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

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

(4)(A) “Forestry” means the science, art, and practice of creating, managing, using, and conserving forests and associated resources in a sustainable manner to meet desired goals, needs, and values, including timber management, wildlife management, biodiversity management, and watershed management. Forestry science consists of those biological, physical,

1 quantitative, managerial, and social sciences that are applied to forest
2 management. Forestry services include investigations, consultations, timber
3 inventory, and appraisal, development of forest management plans, and
4 responsible supervision of forest management or other forestry activities on
5 public or private lands.

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

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

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

12 § 4903. PROHIBITIONS; OFFENSES

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

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

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

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

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

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

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

10 § 4904. EXEMPTIONS

11 This chapter does not prohibit:

12 (1) A person, business organization, State university, or department or
13 agency of any branch of government from practicing forestry on his, her, or its
14 own lands.

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

17 (3) The carrying out of forest practices as an employee of a licensed
18 forester when acting under the direct supervision of that licensed forester. As
19 used in this subdivision, “direct supervision” means the licensed forester must
20 be on-site and present where the forest practices are provided, is immediately

1 available to the person being supervised, and maintains continued involvement
2 in the aspects of each forest practice performed by the person being supervised.

3 Subchapter 2. Administration

4 § 4911. DUTIES OF THE DIRECTOR

5 (a) The Director shall:

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

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

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

12 (4) administer fees as established by law;

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

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

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

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

1 § 4912. ADVISOR APPOINTEES

2 (a)(1) The Secretary of State shall appoint three licensed foresters for
3 five-year staggered terms to serve at the Secretary’s pleasure as advisors in
4 matters relating to forestry. One of the initial appointments shall be for less
5 than a five-year term.

6 (2) An appointee shall have not less than five years’ experience as a
7 forester immediately preceding appointment; shall be licensed as a forester in
8 Vermont; and shall be actively engaged in the practice of forestry in this State
9 during incumbency.

10 (b) The Director shall seek the advice of the forestry advisor appointees in
11 carrying out the provisions of this chapter.

12 Subchapter 3. Licenses

13 § 4921. QUALIFICATIONS FOR LICENSURE

14 Applicants for licensure shall qualify under one of the following paths to
15 licensure:

16 (1) Possession of a bachelor’s degree, or higher, in forestry from a
17 program approved by the Director, and passage of the SAF Certified Forester
18 examination.

19 (2) Possession of a bachelor’s degree, or higher, in a forestry-related
20 field from a program approved by the Director, satisfactory completion of the

1 SAF Certified Forester experience requirements, and passage of the SAF
2 Certified Forester examination.

3 (3) Possession of an associate degree in forestry from a program
4 approved by the Director, satisfactory completion of the SAF Certified
5 Forester experience requirements, and passage of the SAF Certified Forester
6 examination.

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

14 § 4922. APPLICATIONS FOR LICENSURE

15 Applications for licensure shall be on forms provided by the Director. Each
16 application shall contain a statement under oath showing the applicant's
17 education, forestry experience, and other pertinent information required by the
18 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, not to exceed 12 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;

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 PROVISION; ADVISORS; LICENSING OF
12 CURRENT FORESTERS

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

18 (b) The Director of the Office of Professional Regulation shall establish a
19 procedure so that a person who has been engaged in the practice of forestry
20 prior to the effective date of Sec. 2 of this act may become licensed. Formal
21 education and examination requirements shall be waived for such an applicant

1 who can establish a record of forestry practice of at least eight years of
2 experience within the last 10 years from the effective date of this act. Any
3 person licensed under this section shall thereafter be eligible for licensure
4 renewal pursuant to 26 V.S.A. § 4924.

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 January 1, 2016.