

HOUSE No. 4545

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, December 17, 2012.

The committee on Ways and Means, to whom was referred the Bill to update the public shade tree law (House, No. 1839), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4545).

For the committee,

BRIAN S. DEMPSEY.

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act to update the public shade tree law.

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 87 of the General Laws, as appearing in the 2010 Official Edition, is
2 hereby amended by striking out section 2 and inserting in place thereof the following section:-
3 Section 2. The tree warden of a town or city may appoint and remove deputy tree wardens. The
4 tree warden and the deputy tree wardens shall receive such compensation as the town or city
5 determines. The tree warden shall have the care and control of all public shade trees, shrubs and
6 growths in the town or city, except those in public parks or open places under the jurisdiction of
7 the park commissioners, unless otherwise designated in writing by the park commissioners, and
8 shall enforce all the provisions of law for the preservation of such trees, shrubs and growths. The
9 tree warden shall expend all money appropriated for the setting out and maintenance of such
10 trees, shrubs and growths. No tree shall be planted within a public way without the approval of
11 the tree warden. The tree warden may propose regulations for the care and preservation of public
12 shade trees to be approved by the local governing body of a town or city selectmen, which shall
13 have the effect of town by-laws, and may establish fines and forfeitures for violations thereof
14 pursuant to rules and regulations promulgated under section 15.

15 SECTION 2. Said chapter 87, as so appearing, is hereby further amended by striking out section
16 5 and inserting in place thereof the following section:-

17 Section 5. Tree wardens and deputy tree wardens, but no other person, may, without a hearing,
18 trim, cut down or remove trees, less than 4 inches in diameter 1 foot from the ground, and
19 bushes, standing in public ways; and, if ordered by the mayor, selectmen, road commissioners or
20 highway surveyor, shall trim or cut down trees and bushes that, following an inspection based on
21 accepted industry or government arboricultural standards for the determination of hazardous or
22 dangerous trees, are deemed to obstruct, endanger, hinder or incommode persons traveling
23 thereon or to obstruct buildings being moved pursuant to the provisions of section 18 of chapter
24 85. Nothing in this chapter shall prevent the trimming, cutting or removal of any tree which
25 endangers persons traveling on a highway or poses an imminent threat to persons or property by
26 the proper state or municipal authority. In all other instances, the person seeking to trim, cut or
27 remove a tree from the public way shall consult with the tree warden. Nothing herein shall
28 interfere with the suppression of pests declared to be public nuisances pursuant to section 11 of
29 chapter 132, including the Dutch elm disease.

30 SECTION 3. Said chapter 87, as so appearing, is hereby further amended by striking out section
31 6 and inserting in place thereof the following section:-

32 Section 6. A violation of the provisions in sections 3 to 5, inclusive, shall be punished by
33 forfeiture of not more than the assessed value of the tree or trees pursuant to rules and
34 regulations promulgated under section 15. Such monies shall be collected for use by the city or
35 town.

36 SECTION 4. Section 9 of said chapter 87, as so appearing, is hereby amended by striking out
37 the first sentence and inserting in place thereof the following sentence:- Whoever affixes to a tree
38 in a public way, or places a notice, sign, advertisement or other thing, whether in writing or
39 otherwise, or cuts, paints or marks such tree, except for the purpose of protecting it or the public
40 and under a written permit from the officer having the charge of such trees in a city or from the
41 tree warden in a town, or from the department in the case of a state highway, shall be punished
42 by a fine pursuant to rules and regulations promulgated under section 15.

43 SECTION 5. Section 12 of said chapter 87, as so appearing, is hereby amended by striking out
44 the first sentence and inserting in place thereof the following sentence:- Whoever wantonly
45 injures, defaces or destroys a shrub, plant or tree, or fixture of ornament or utility, in a public
46 way or place or in any public enclosure, or negligently or wilfully suffers an animal or vehicle
47 driven by or for him or belonging to him to injure, deface or destroy such shrub, plant, tree or
48 fixture, shall be punished by a fine of not more than 500 dollars, and shall be liable to the town,
49 city or any person for all damages relating to their interest in the shrub, plant, tree or fixture
50 caused by such act.

51 SECTION 6. Section 13 of said chapter 87, as so appearing, is hereby amended by inserting at
52 the end thereof the following sentence:- In accordance with section 106 of chapter 41, the tree
53 warden in any city or town which exceeds 10,000 residents shall be qualified by training and
54 experience in the field of arboriculture and licensed with the department of agricultural resources
55 in accordance with the provisions of section 10 of chapter 132B. A qualified tree warden shall
56 be defined as a person who has completed a degree in a forestry or natural resource management
57 field, has attained certification from the International Society of Arboriculture or through the
58 Massachusetts Certified Arborist Program of the Massachusetts Arborists Association or other

59 equivalent professional certification or, for communities with less than 10,000 residents,
60 completed a series of Professional Development courses offered by the Massachusetts Tree
61 Wardens and Foresters Association or equivalent training.

62 SECTION 7. Chapter 87 of the General Laws is hereby amended by inserting after section 14
63 the following section:-

64 Section 15. The department of conservation and recreation shall promulgate rules and
65 regulations pertaining to this chapter.