

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1191

H.P. 899

House of Representatives, February 28, 2001

An Act to Amend the Maine Arborist Licensing Laws.

Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 204.

Reference to the Committee on Business and Economic Development suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative MURPHY of Kennebunk.

Cosponsored by Senator KILKELLY of Lincoln and

Representatives: GOOLEY of Farmington, PINEAU of Jay, Senator: GAGNON of Kennebec.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 5 MRSA §12004-I, sub-§1-A** is enacted to read:

6 1-A. Maine Arborist Expenses 7 MRSA
Agriculture Advisory Only §2191
8 Council

10 **Sec. 2. 7 MRSA §2175, sub-§1**, as enacted by PL 1999, c. 84, §3, is amended to read:

12 **1. Penalties.** Any A person who violates this subchapter is
14 ~~guilty of a Class-E crime~~ commits a civil violation for which a
forfeiture of up to \$500 a day for each day the violation
16 continues may be adjudged. All penalties collected must be
deposited in a nonlapsing account in the department and must be
18 used for the expenses of administering this chapter.

20 **Sec. 3. 7 MRSA §2175, sub-§2**, as enacted by PL 1999, c. 84, §3 and amended by c. 547, Pt. B, §78 and affected by §80, is further amended to read:

22 **2. Injunction.** The State may bring an action in District
24 Court or Superior Court to enjoin any person from violating this
26 chapter, regardless of whether other proceedings have been or may
~~be instituted in the District Court or whether criminal~~
~~proceedings have been or may be instituted.~~

28 **Sec. 4. 7 MRSA §2179**, as enacted by PL 1999, c. 84, §3, is amended to read:

30 **§2179. License required**

32 ~~Except as provided in section 2180,~~ a A person may not
34 advertise, solicit, contract or in any way engage for
36 compensation in the business of an arborist, or make
38 representation as being able to do so, without being licensed as
an arborist.

40 **Sec. 5. 7 MRSA §2180**, as enacted by PL 1999, c. 84, §3, is repealed.

42 **Sec. 6. 7 MRSA §2184, 2nd ¶**, as enacted by PL 1999, c. 84, §3, is repealed.

44 **Sec. 7. 7 MRSA §2191** is enacted to read:

46 **§2191. Advisory council established**

48 The Maine Arborist Advisory Council, as established in Title
50 5, section 12004-I, subsection 1-A and referred to in this

2 section as the "council," advises the commissioner on the
3 licensing and enforcement of arborists in the State.

4 1. Membership; terms; meetings; removal. The council
5 consists of 7 members appointed by the commissioner. Of the 7
6 members, one must be a member representing the public and 6 must
7 be arborists licensed by the State. In addition, one must be a
8 licensed arborist employed by a municipality of the State; one
9 must be an employee of an electrical transmission company; and
10 one must be a self-employed arborist. All regions of the State
11 must be represented on the council.

12 Members serve for a term of 3 years. At the end of a term an
13 outgoing member serves until a successor has been appointed. A
14 member may not serve more than 2 consecutive terms.

15 The council shall meet at least annually to conduct business and
16 to elect officers. A quorum consists of at least 4 members. The
17 affirmative vote of a majority of the members present is
18 necessary to decide any business brought before the council.

19 A member may be removed by the commissioner for:

20 A. Failure to attend council meetings;

21 B. Failure to maintain a valid arborist license, if
22 required to do so;

23 C. Moving out of the State; or

24 D. Cause, as determined by the commissioner.

25 Members may not be compensated except for expenses incurred in
26 attending meetings. A commercial arborist who is a present or
27 former member of the council may not use membership on the
28 council in the advertising of the arborist's business.

29 2. Duties of council. The council shall:

30 A. Consult with the department on matters in which the
31 members have individual or collective expertise;

32 B. Assist the department in developing and updating
33 arborist exams;

34 C. Recommend to the department amendments to arborist
35 licensing laws and rules to ensure they properly regulate
36 the activities of licensed arborists in the State; and

37 D. Assist the department with investigating complaints of

2 unprofessional conduct and recommend a course of action to
3 resolve such complaints.

4
5
6 **SUMMARY**

7 This bill changes the penalty for violating the arborist
8 licensing laws from a criminal to a civil violation and
9 establishes a fine of up to \$500 per day for each day the statute
10 is violated. It allows actions to be brought against individuals
11 who violate this statute in either District Court or Superior
12 Court. It eliminates the exemption to the licensing requirement
13 for tree removal in municipalities having populations under 2,500
14 people. It eliminates the requirement of examining applicants
15 for restricted licenses in those subjects to which their
16 activities are restricted, thereby allowing the State to examine
17 applicants in a broader category of subject areas. It
18 establishes the Maine Arborist Advisory Council to advise the
19 Department of Agriculture, Food and Rural Resources on the
20 operation and enforcement of the arborist licensing laws.