

HOUSE BILL 1118

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71r0620

By: **Delegate Lafferty**

Introduced and read first time: February 9, 2017

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 2017

CHAPTER _____

1 AN ACT concerning

2 **Natural Resources – Roadside Trees – Preservation and Protection**

3 FOR the purpose of authorizing the Department of Natural Resources to allow under a
4 permit for roadside tree care the maintenance or removal of a roadside tree under
5 certain circumstances; prohibiting the Department from authorizing under a permit
6 for roadside tree care the maintenance or removal of a roadside tree for certain
7 purposes; requiring an applicant for a permit to remove a roadside tree to
8 demonstrate to the Department that the applicant has made a reasonable effort to
9 protect and preserve the roadside tree; requiring an applicant for a permit for a
10 program of general tree care to demonstrate to the Department that the program
11 includes reasonable standards and procedures to protect and preserve roadside trees;
12 requiring a person who removes a roadside tree to replace the tree with a species of
13 tree, within the time frame, and in a location as approved in the permit; requiring a
14 person who administers a program of general tree care under a permit to ensure that
15 any roadside tree removed is replaced consistent with the permit; providing that a
16 permit holder may not be required to replace a removed roadside tree under certain
17 circumstances; requiring the Department to adopt certain regulations governing the
18 replacement of roadside trees and certain required notice to certain State or local
19 agencies under certain circumstances; stating the policy of the General Assembly
20 with respect to roadside trees; making certain stylistic changes; clarifying certain
21 language; and generally relating to the preservation and protection of roadside trees.

22 BY repealing and reenacting, without amendments,

23 Article – Natural Resources

24 Section 5–401

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2012 Replacement Volume and 2016 Supplement)

3 BY adding to
4 Article – Natural Resources
5 Section 5–401.1
6 Annotated Code of Maryland
7 (2012 Replacement Volume and 2016 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Natural Resources
10 Section 5–402 and 5–406
11 Annotated Code of Maryland
12 (2012 Replacement Volume and 2016 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
14 That the Laws of Maryland read as follows:

15 **Article – Natural Resources**

16 5–401.

17 In this subtitle, “roadside tree” means any tree or shrub growing within the
18 right-of-way of any public road.

19 **5–401.1.**

20 **IT IS THE POLICY OF THE GENERAL ASSEMBLY TO PRESERVE AND PROTECT**
21 **HEALTHY ROADSIDE TREES IN THE INTERESTS OF:**

22 **(1) PROVIDING ENVIRONMENTAL AND ECOLOGICAL BENEFITS,**
23 **INCLUDING:**

24 **(I) THE REDUCTION OF STORMWATER RUNOFF AND SOIL**
25 **EROSION;**

26 **(II) THE SEQUESTRATION AND STORAGE OF CARBON AND THE**
27 **REDUCTION OF THE NEGATIVE EFFECTS OF GREENHOUSE GASES;**

28 **(III) THE REDUCTION OF THE URBAN “HEAT ISLAND EFFECT”;**

29 **(IV) THE PROVISION OF FOOD AND HABITAT FOR BIRDS AND**
30 **OTHER WILDLIFE; AND**

31 **(V) THE REDUCTION OF ENERGY USE; AND**

1 **(2) MAINTAINING THE SOCIAL AND ECONOMIC BENEFITS THAT**
 2 **ROADSIDE TREES PROVIDE.**

3 5-402.

4 The Department [may]:

5 **(1) MAY** plant trees along the roadsides[, make rules and];

6 **(2) SHALL ADOPT** regulations governing [the]:

7 **(I) THE** planting, care, [for and protect] **MAINTENANCE,**
 8 **PROTECTION, AND REPLACEMENT OF** any roadside tree[, and]; **AND**

9 **(II) REQUIRED NOTICE BY THE PERMIT HOLDER TO THE**
 10 **APPROPRIATE STATE OR LOCAL TRANSPORTATION OR PUBLIC WORKS AGENCY**
 11 **ABOUT THE NEED TO, IF NECESSARY, TIMELY REMEDIATE A HAZARD OR SOURCE OF**
 12 **DANGER CAUSED BY A ROADSIDE TREE REMOVED UNDER THE PERMIT; AND**

13 **(3) MAY** establish one or more State forest nurseries for the propagation of
 14 trees for any roadside planting.

15 5-406.

16 **(a) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON MAY NOT**
 17 **MAINTAIN, REMOVE, OR OTHERWISE INJURE A ROADSIDE TREE.**

18 **(B) (1)** Except as provided in subsection [(b)] **(C)** of this section, any person
 19 who desires to [cut down or trim] **MAINTAIN OR REMOVE** any roadside tree shall apply to
 20 the Department for a permit.

21 **(2) (I) THE DEPARTMENT MAY AUTHORIZE UNDER A PERMIT FOR**
 22 **ROADSIDE TREE CARE THE MAINTENANCE OR REMOVAL OF ANY ROADSIDE TREES:**

23 **1. TO ELIMINATE A HAZARD OR SOURCE OF DANGER TO**
 24 **PROPERTY, PUBLIC SAFETY, OR HEALTH; ~~OR~~**

25 **2. THAT ARE DEAD, DYING, OR DETERIORATING;**

26 **3. TO ENABLE:**

27 **A. NECESSARY IMPROVEMENTS, REPAIRS, OR**
 28 **EXPANSION OF CONDUITS, RIGHTS-OF-WAY, ROADWAYS, OR OTHER**
 29 **INFRASTRUCTURE; OR**

1 **B. DEVELOPMENT THAT MEETS LOCAL ZONING AND**
2 **LAND USE REQUIREMENTS; OR**

3 **4. IN THE DISCRETION OF THE DEPARTMENT**
4 **CONSISTENT WITH ITS ROADSIDE TREE PROGRAM.**

5 (II) THE DEPARTMENT MAY NOT AUTHORIZE UNDER A PERMIT
6 FOR ROADSIDE TREE CARE THE MAINTENANCE OR REMOVAL OF ANY ROADSIDE
7 TREES:

8 1. TO IMPROVE THE GENERAL AESTHETICS OF THE
9 RIGHT-OF-WAY OR AN ADJACENT PROPERTY; OR

10 2. FOR THE CONVENIENCE OF AN ADJACENT PROPERTY
11 OWNER OR RESIDENT.

12 (3) (I) AN APPLICANT FOR A PERMIT TO REMOVE A SPECIFIC
13 ROADSIDE TREE OR GROUP OF ROADSIDE TREES SHALL DEMONSTRATE TO THE
14 SATISFACTION OF THE DEPARTMENT THAT THE APPLICANT HAS MADE A
15 REASONABLE EFFORT TO PROTECT AND PRESERVE THE ROADSIDE TREE OR TREES.

16 (II) AN APPLICANT FOR A PERMIT FOR A PROGRAM OF GENERAL
17 TREE CARE SHALL DEMONSTRATE TO THE SATISFACTION OF THE DEPARTMENT
18 THAT THE PROGRAM INCLUDES REASONABLE STANDARDS AND PROCEDURES TO
19 PROTECT AND PRESERVE ROADSIDE TREES.

20 (4) (I) A PERSON WHO REMOVES A SPECIFIC ROADSIDE TREE OR
21 GROUP OF ROADSIDE TREES SHALL REPLACE THE TREE OR TREES WITH A SPECIES
22 OF TREE OR TREES, WITHIN THE TIME FRAME, AND IN A LOCATION AS APPROVED IN
23 THE PERMIT.

24 (II) A PERSON WHO ADMINISTERS A PROGRAM OF GENERAL
25 TREE CARE UNDER A PERMIT SHALL ENSURE THAT ANY ROADSIDE TREE THAT IS
26 REMOVED UNDER THE PERMIT IS REPLACED CONSISTENT WITH THE PERMIT.

27 (III) A PERMIT HOLDER MAY NOT BE REQUIRED TO REPLACE A
28 REMOVED ROADSIDE TREE UNDER THIS PARAGRAPH IF A REPLACEMENT TREE IS
29 REQUIRED TO BE PLANTED UNDER ANOTHER PROVISION OF THIS TITLE.

30 [(b)] (C) (1) A person may remove a tree or its branches without first
31 obtaining a permit from the Department if the tree is unrooted or its branches broken so
32 as to contact telephone, telegraph, electric power, or other wires carrying electric current,
33 or if the tree or its branches endanger persons or property.

1 (2) A tree may be cut down and removed by an abutting landowner for the
2 landowner's own use without first obtaining a permit if the tree is standing within the
3 right-of-way of a public road which has not been surfaced with either stone, shell, gravel,
4 concrete, brick, asphalt, or other improved surface.

5 [(c) A person may not cut down, trim, mutilate, or in any manner injure any
6 roadside tree, except as authorized by this section, without a permit from the Department.]

7 (d) A county or municipality may not issue a building permit to an applicant for
8 any clearing, construction, or development that will result in the trimming, cutting,
9 removal, or injury of a roadside tree until the applicant first obtains a permit from the
10 Department in accordance with this section.

11 (e) A person who trims, cuts, removes, or injures a roadside tree in violation of a
12 regulation adopted under § 5-402 of this subtitle or a permit issued under this section or
13 who fails to obtain a permit as required by this section is liable for the imposition of a
14 penalty:

15 (1) Not exceeding \$2,000 for a first offense; and

16 (2) Not exceeding \$5,000 for a second or subsequent offense.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.