

## Massachusetts House of Representatives Bill Summary

**Bill #:** H.2322 / S.1429

**Title:** An Act to update the public shade tree law

**Sponsor:** Rep. Steven Owens and Rep. Amy Mah Sangiolo/ Sen. Cynthia Stone Creem

**Committee:** Municipalities and Regional Government

**Hearing Date:**

**Prior History:** Refile of H.2094/S.1280 (See Committee Redraft-H.4732)

**Current Law:** Chapter 87 of MGL governs shade trees within the Commonwealth.

- Section 2 authorizes the tree warden of a town to appoint and remove deputy tree wardens.
- Section 5 provides that tree wardens and their deputies, but no other person, may, without a hearing, trim, cut down or remove trees, less than 1.5 inches in diameter 1 foot from the ground, and bushes, standing in public ways.
- Section 6 specifies penalties for violations of any provision of the three preceding sections.
- Section 9 contains penalties (\$50 fine) for placing a notice, sign, advertisement, or other thing on a tree, whether in writing or otherwise, or cuts, paints or marks such tree, unless authorized to do so for official purposes.
- Section 12 imposes a \$500 fine plus payment for damages on anyone who deliberately injures, defaces, or destroys a shrub, plant or tree, or fixture of ornament or utility (or allows an animal to do so), in a public way, place or enclosure.
- Section 13 states that the powers and duties of tree wardens shall be exercised by the officials in charge of shade trees.

**Summary:** Section 1 amends Section 2 of Chapter 87, which outlines the powers of tree wardens. Changes to this section include:

- Placing public shade trees within a state highway under the care and control of a tree warden
- Replacing language referencing gender in relation to the tree warden to gender neutral language
- Removing the requirement for approval from the selectmen or road commissioners for the planting of a tree within a public way in a town

- Striking out a dollar amount (of \$20) for violations of regulations and inserting a general power to impose fines and forfeitures for violations pursuant to the new Section 15 of Chapter 87 of MGL created in Section 7

Section 2 rewrites Section 5 of Chapter 87, which regulates the cutting down and trimming of public shade trees. The changes in this section include:

- Increasing the diameter of trees which tree wardens and deputy tree wardens may trim, cut, or remove without a hearing from 1.5 inches to 4 inches
- Adding language to require an inspection based on accepted industry standards to trim, cut, and remove trees and bushes that are deemed to obstruct, endanger, hinder, or inconvenience people
- Deleting language allowing individuals to trim, cut, or remove public shade trees unless ordered by proper officers to do so for the purposes of widening the highway and replacing it with language that allows individuals to do so if the tree poses an imminent threat to persons or property but requires a consultation with the tree warden for all other cases.

Section 3 updates the punishment established in Section 6 of Chapter 87 of MGL for violations of Sections 3-5 of the General Law from a fine of up to \$500 to a fine of no more than the assessed value of the tree or trees. The money collected in this section shall be collected for use by the city or town.

Section 4 amends Section 9 of Chapter 87 of MGL by changing the penalty for placing signs or marks on shade trees from a fine of up to \$50 to an amount determined by the department of conservation and recreation in Section 15 of this legislation.

Section 5 revises Section 12 of Chapter 87 to punish anyone who recklessly damages a tree, shrub, plant, or fixture, or allows an animal or vehicle to do so by imposing a fine of not more than \$500 plus damages.

Section 6 amends Section 13 of Chapter 87 of MGL by adding a requirement that a tree warden in a city or town with a population of greater than 10,000 people have certain qualifications and experience in the field of arboriculture and licensed with the department of agricultural resources in accordance with the provisions of section 10 of chapter 132B. These qualifications and experience shall include but not be limited to:

- An accredited degree in forestry or natural resource management field

- Certification from the International Society of Arboriculture, the Massachusetts Certified Arborist Program of the Massachusetts Arborists Association, or other equivalent professional certification
- Professional development courses offered by the Massachusetts Tree Wardens and Foresters Associations, or equivalent training

Section 7 adds a new section to Chapter 87 of MGL, Section 15. This new section authorizes the department of conservation and recreation to promulgate rules and regulations pertaining to this chapter.

Section 8 amends section 106 of chapter 41 of the General Laws by striking out the words “food and agriculture” and inserting in place thereof the words “agricultural resources”. This section further amends section 106 by striking out the word “arborculture” and inserting in place the word “arboriculture”. The changes in terminology in this section is intended to reflect the accurate state department being referenced and to reflect the correct terminology for the field of arboriculture.

**Notes:**

According to the sponsor’s office, this bill is attempting to modernize the public shade tree law by:

- Requiring that tree wardens have sufficient training and certification, accounting for the special needs of smaller communities
- Assessing fines for those who damage a tree or plant by driving an automobile into it. Chapter 87 was written before popular use of the automobile, and so only imposes fines for those who damage shade trees by driving their animals
- Changing the penalty for illegally removing shade trees from \$500 to the value of replacing the tree, which more adequately reimburses municipalities
- Increasing the diameter of trees that wardens can trim or remove without a hearing from 1.5 to 4 inches. This would allow wardens, especially in rural communities, to execute their roles more efficiently.
- Removing road widening as a condition for cutting down public shade trees without a hearing. This would help preserve tree cover especially in urban communities where canopies are sparser and clustered along roadways.