House of Representatives
Study Committee on Safety and Consumer Protection in the Tree Care Industry

Final Report

Chairman, Victor Anderson
Representative, 10th District

The Honorable David Huddleston
Representative, 72nd District

The Honorable Marvin Lim
Representative, 98th District

The Honorable Jordan Ridley
Representative, 22nd District

The Honorable Bill Yearta
Representative, 152nd District

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Prepared by the House Budget & Research Office

Introduction

The House Study Committee on Safety and Consumer Protection in the Tree Care Industry was created by House Resolution 473 during the 2024 Legislative Session of the Georgia General Assembly. HR 473 acknowledges the need for standards and regulations for the tree care industry.

Representative Victor Anderson (10th) chaired the committee, which also included four additional House members: Representative David Huddleston (72nd), Representative Marvin Lim (98th), Representative Jordan Ridley (12th), and Representative Bill Yearta (152nd). The House Budget and Research Office assigned Ms. Bailey Jordan and the Office of Legislative Counsel assigned Mr. Paul Higbee to assist the committee.

The study committee held three public meetings during Fall 2024, on September 21st at Legacy Park to hear testimony from industry specialists on the severity of the safety issues within the tree care industry; November 12th at the State Capitol to focus on how public and private entities interact with the tree care industry; December 16th at the State Capitol to discuss formal recommendations and approve the final report.

The following speakers testified before the committee:

Saturday, September 21, 2024 – Legacy Park

Tierson Boutee – Georgians for a Safer Tree Industry

Rusty Lee – Georgians for a Safer Tree Industry

Cesar Sesmas – Arbor Force Tree Services

Eric Gansauer – Columbus Consolidated Government

Tuesday, November 12, 2024 – Georgia State Capitol

Dan Burer – Georgia Power

Richard Littleton – Georgia Department of Transportation

Tierson Boutee – Georgians for a Safer Tree Industry

Crystal McPherson – Better Business Bureau

Bryce Rawson and Jeremy Betts – Office of the Insurance Commissioner

Rusty Lee – Georgians for a Safer Tree Industry

Summary of Meetings

The study committee met at Legacy Park to hear testimony from industry experts to understand the scope of the issues within the tree care industry.

Tree Care Safety Protocols

Mr. Tierson Boutee, President of Georgians for a Safer Tree Industry (GFASTI) in his opening remarks stated "In Georgia, we are losing about a person a month to tree work." Most of the fatalities in the industry are due to lack of training. All aspects of tree care are dangerous for the employee; from the potential to fall out of a tree to the use of equipment such as chippers and chainsaws. To improve safety within the industry and decrease fatalities there are four areas of concern to consider: (1) falls from heights, (2) struck by objects, (3) vehicular incidents, and (4) electrocutions.

Currently, the only documents pertaining to safety procedures within the industry are the American National Standards Institute (ANSI) Z133, ANSI A300, and OSHA CFR part 129. These procedures are not mandated and are used on a voluntary basis. Each presenter highlighted the need for training as the tree care industry is rapidly growing in response to the increase of suburbanization. It is crucial for individuals practicing in the industry to understand the cardinal rules of tree work such as moving at least five feet away after felling a tree or the rescue procedures to follow should an individual lose consciousness in a tree to prevent loss of life.

Columbus is the only city in Georgia that requires a license for tree service operations in order to do business in the municipality. This requirement extends to operators who may have a business location outside of Columbus. The testing protocol to become a licensed operator follows the format of the International Society of Arboriculture certified arborist test. The test consists of a written exam and a field test that must be passed before a license is given.

Mr. Rusty Lee, the Vice President of GFASTI, Mr. Ceasar Sesmas, the President of Arbor Force Tree Services, and Mr. Eric Gansauer, the Columbus City Arborist offered recommendations to the committee for consideration. Mr. Lee discussed the importance of requiring tree care service providers have insurance. He stated that by requiring insurance these businesses will be incentivized to prioritize training as insurance companies would likely charge higher premiums on businesses more prone to have accidents. Other recommendations included workman's compensation requirements, training and safety standards, and licensing.

Use of Tree Care Services in the Public and Private Sector

The study committee met at the Georgia State Capitol to hear testimony from the public and private sector on their policies for working with tree care service operators.

Mr. Dan Burer, with Vegetation Management for Georgia Power opened the meeting by explaining Georgia Power's use of tree care services. Georgia Power uses these professionals to

ensure vegetation and limbs stay off the power lines to maintain power reliability for customers, comply with federal guidelines, and safeguard the system. The company has 50,000 miles of linear assets and employs roughly 500-1,000 contractors for vegetation management. Georgia Power staff arborists oversee the work on these projects and are required to maintain credentials under the ISA arboriculture licenses. For a tree care service to work with Georgia Power they must participate in a request for proposal (RFP), demonstrate experience with other utilities, and will be subject to the company's review process. The review process includes but is not limited to site visits, review of financials, audits of the prospective contractor's policies and safety plan, and I-9 verification. Georgia Power expects their contractors to hire qualified crews that possess the training and experience necessary to perform the work. The company reserves the right to dismiss any employee deemed as unsuitable. Georgia Power requires hired contractors to have workers compensation, general liability, automobile liability, and professional liability.

Following the presentation by Georgia Power, the committee heard from Richard Littleton, the State Agronomist Manager with the Georgia Department of Transportation (GDOT). Tree care service providers are used to help clear the highways because the moisture produced by vegetation does not mix well with asphalt. GDOT manages 750,000 acres in the right-of-way across the state. The department underwrites and approves their contractors. Once a contractor makes the approval list, they are eligible to bid for contacts. Standardized training is needed to ensure the tree service providers bidding on these contracts have the minimum skills to perform the service because the state usually chooses the most economical option. Mr. Littleton recommended using the following standards as the basis for establishing regulations for the industry: ANSI Z133, Georgia Department of Agriculture pesticide license requirements, University of Georgia landscape professional certifications, and the Georgia Arborist Association certifications. Additionally, he mentioned it is essential to have training for the use of equipment such as chippers, chainsaws, and cranes.

Mr. Tierson Boutee, President of the Georgians for a Safer Tree Industry explained the proposed draft legislation for tree care professionals. The proposed legislation's framework is based on the commercial pesticide applicator rules (see attachment 1). It establishes the Georgia Tree Care Operations Commission consisting of seven members as follows: One member shall be the Dean of the University of Georgia's Warnell School of Forestry and Natural Resources, ex officio, or some qualified person of that College designated by him or her. One member shall be the Commissioner of Agriculture of this state or the commissioner's designee. One member shall be the Director of the Georgia Forestry Commission, ex officio, or some qualified person designated by him or her. One member shall have no relation to the tree care operations industry, but shall have a recognized interest in consumer affairs and in consumer protection concerns. Such member shall be appointed by the commissioner. Three members shall be residents of this state who are engaged in tree care operations and who are licensed operators or employees, officers, or owners of licensed operators. Such members shall be appointed by the commissioner. The legislation would create three types of licenses. It will require tree care

operators to have workers compensation, general liability, or professional liability insurance depending on the license type.

Consumer Protection

Mr. Bryce Rawson, the Director of Legislative Affairs for the Georgia Department of Insurance and Safety Fire testified to the committee about consumer protection related to post-disaster mitigation and recovery efforts. The state witnesses an increase of out-of-state tree service contractors after a storm. The agency consistently receives consumer complaints about unscrupulous service providers price gouging, using high pressure sales techniques to rush the consumer into signing a contract and falsely claiming endorsements from the Georgia and Federal Emergency Management Agency. Mr. Rawson suggested the state continue to offer resources for consumer education to equip the customer with the tools to choose reputable contractors.

Ms. Crystal McPherson, the Community Engagement Lead for the Better Business Bureau (BBB) Atlanta spoke with the committee about the importance of being a trustworthy business to promote consumer confidence. According to Ms. McPherson there are four core principles of a trustworthy business: (1) has clear contracts, (2) offers milestone payments, (3) possesses the appropriate licenses and insurance, and (4) maintains integrity. Consumers routinely have complaints about damages to their property, lack of debris removal after payment, and contracts not clearly defining the scope of services to be performed. It is essential for the industry to have standard practices that encourage accountability and communication with the customer. The BBB recommends implementing training and safety standards to improve the quality of tree care services to protect consumers.

Committee Findings

According to the Tree Care Industry Association (TCIA), the annual fatality rate for landscape workers, including tree service providers in the U.S. is approximately 17 per 100,000 full time equivalent workers; accounting for 220 fatalities annually. In comparison, the all-industry-fatal-incident rate generally ranges from 3.4 to 3.8 per 100,000 full time equivalent workers.

The Bureau of Labor Statistics estimated 63,700 tree trimmers and pruners and reported a fatality rate of 110 per 100,000. The injury rate for tree care workers is 239 injuries per 10,000 workers while the all-industry injury rate is 89 per 10,000 workers. The fatality to injury rate for the tree care industry is one fatality for every 14 injuries. On average, tree workers experience 10 to 12 fatalities monthly.

The Better Business Bureau reported 571 complaints related to tree care services across the United States. Georgia accounted for 20% of all tree care complaints. Of the complaints, 20%

were BBB accredited businesses and 80% were BBB non-accredited businesses. Non-accredited businesses are often unresponsive to BBB's attempts to seek remediation for the consumer.

Committee Recommendations

Upon review of the information presented, the House Study Committee on Safety and Consumer Protection in the Tree Care Industry recommends the following:

1) Encourage tree care trade organizations and advocacy groups to continue emphasizing training in safety, skill and technique, customer service, business practices, etc. to promote professionalism, safety, and consumer satisfaction and protection.
2) Introduce legislation to create a licensing and regulatory program for the tree care industry ensuring all interested parties have input. Attached to this report is a proposed draft, with minor edits, provided by GFASTI which serves as a good starting point.
3) The committee recommends that any licensing and regulatory program fall under the jurisdiction of the Department of Agriculture.
4) The committee further recommends that the Legislature appropriate adequate funds for the creation and operation of the program.

Attachment 1

Rules of the Georgia Tree Care Operations Commission

ADMINISTRATION AND ORGANIZATION

(1) Administration. All Rules relating to the administration of the Georgia Tree Care Operations Commission shall be administered by the Commissioner of Agriculture of the State of Georgia, whose office is located at 19 Martin Luther King, Jr. Drive, Atlanta, Georgia, 30334. Statutory Authority: O.C.G.A. 43-52-7.

(2) Organization of Commission. The Georgia Tree Care Operations Commission shall consist of seven (7) members, as follows: One member shall be the Dean of the University of Georgia's Warnell School of Forestry and Natural Resources, ex oficio, or some qualified person of that College designated by him or her. One member shall be the Commissioner of Agriculture of this state or the Commissioner's designee. One member shall be the Director of the Georgia Forestry Commission, ex oficio, or some qualified person designated by him or her. One member shall have no connection whatsoever with the tree care operations industry but shall have a recognized interest in consumer affairs and in consumer protection concerns. Such member shall be appointed by the Commissioner. Three members shall be residents of this state who are engaged in tree care operations and who are licensed operators or employees, officers, or owners of licensed operators. Such members shall be appointed by the Commissioner. Statutory Authority: O.C.G.A. 43-52-3

GENERAL

Definitions. The following definitions shall apply to all Chapters

(1) "Act"-- means the Tree Care Operations Act (Ga. L. 1955, p. 690 and all amendments thereto)
(2) "Applicant" -- means any person or persons in charge of any individuals, firm, partnership, corporation, association, or any other organization or any combination thereof making application or a license to engage in operations regulated by this chapter, or any person making application for licensing or registration under this chapter
(3) "Current operator" -- means any individual, firm, partnership, corporation, association, or any other organization or entity that engages in operations regulated under this chapter. The Commission shall use their discretion to determine whether an organization or entity engages in operations regulated under this chapter and register those organizations to protect consumers in the State of Georgia.
(4) "Commission" -- means the Georgia Commission of Tree Care Operations, established pursuant to section 3 of this act.
(5) "Commissioner" -- means the Commissioner of Agriculture of this state, and the term is used throughout this chapter by implication to include his deputies under this chapter.

Specifically, the Tree care operations manager and tree care operations inspectors are included, although any employee of the Department of Agriculture may be deputized by the Commissioner of Agriculture to act as directed under this chapter.

(6) "Computer Based Training" -- means any prerecorded or static presentation or session where there is no real time interaction with the speaker.

(7) "Certified Operator" -- means a person who is currently certified in one or more of the Tree care operations categories and who has been designated by a Licensee as being responsible for the operation and reporting activities of said Licensee in the category(ies) in which he or she is certified.

(8) "Employee" -- means any person employed by a licensee or recognized operator that is engaged in any phase of tree work. It does not include clerical, janitorial, or administrative employees, or those employees performing work unrelated to tree care operations.

(9) "Experience Relating to Service" -- means experience in the field operations of Tree Care Operations.

(10) "Licensee" -- means any business entity engaged in the business of tree care operations which holds a valid license issued under this chapter, subject to the provisions of the Act, provided; no licensee shall operate under more than one name, and a separate license shall be required for each different name under which a business entity operates. The Commission may reject a name, if in its opinion, it is likely to be confused with a previously issued licensee name or if it would be in violation of any state or federal requirements.

(11) "Office" -- means any office of a Licensee which has one or more registered employees regularly engaged in any phase of Tree care operations under the charge of a Designated Certified Operator.

(12) "Registered subcontractor" -- means a licensee that is registered to work for another licensee as a subcontractor performing tree care operations.

(13) "Secretary" -- means the Commissioner of Agriculture in his capacity as secretary of the Georgia Commission of Tree Care Operations.

(14) "Tree care operations" -- means and includes arboricultural activities. The three main activities under tree care operations are General tree care operations, Tree health care operations, and Tree consulting operations, and are meant to encompass all operations that fall under this chapter. Logging operations, land clearing & grubbing operations, landscaping, and other industries that work with trees are exempt from this chapter to the extent that they don't engage in arboricultural activities. The definition of arboricultural activities under this chapter are found in the respective definitions of the terms, *immediately below.*

(15) "General tree care operations" -- means and includes utility pruning, tree repairing, cabling, and bracing, and tree pruning or tree removal that involves arboricultural equipment or techniques, including but not limited to rigging, climbing, cranes, aerial

lift equipment, or other mechanized equipment, or wherever pruning or removal services involves aerial sectioning of trees because of obstacles, sensitive ground, or special site requirements as they relate to the trees.

(16) "Tree health care operations" -- means for-hire diagnosing and treating of tree problems, pests, or diseases, or any use of tree growth control chemicals, or any tree maintenance accomplished through sprays, injections, drenches, infusions, or through integrated pest management, with the primary focus of treatments being the control of trees' pests, growth, health or other attributes that affects people, as stated in parts 21©, 21(d) and 21(e) of this Code section.

(17) "Tree consulting operations" -- means any kind of compensated arboricultural consulting work including but not limited to tree assessment, planning of general tree care operations, risk management, consulting or managing trees during site planning and development, arboricultural appraisal, arboricultural expert witness services, or tree inventory services, in which the consulting work focuses primarily on questions of arboricultural practice, knowledge, and convention as it is understood by the International Society of Arboriculture, as stated in parts 21©, 21(d) and 21(e) of this Code section, and include written reports, documents, work orders, or notes that result from the consulting work.

(18) "Revoked" -- means that the commission, after notice and hearing, has determined that the licensee has committed a safety violation or arboricultural violation under this chapter or under the rules promulgated by the commission. Furthermore, revocation means that the violation or violations are severe enough, or persistent enough that, at the discretion of the commission, the license to perform tree care operation within the state is no longer valid. Employees of a company whose license is revoked are not permitted to conduct tree care operations in the state.

(19) "Cancelled" -- means that a license is no longer valid to perform tree care operations in the state because of failure to renew the license or failure to pay fees associated with a license. It carries no implication of a failure to conduct tree care operations properly. Employees of a company whose license is cancelled are not permitted to conduct tree care operations in the state.

(20) "Suspended" means that the commission, after notice and hearing, has determined that the licensee has failed to comply with one or more provisions under this Act, or under the rules promulgated by the commission. Furthermore, the suspension means the violation or violations can, at the discretion of the commission, be remedied by the licensee, and that remedying the violation is in the interest of the public, and that therefore the licensee may continue tree care operations in the state until further action by the commission.

APPLICABILITY

The provisions of this act shall not apply to:

(1) Any person or employer that does not engage in tree care operations for hire;

(2) Any forestry activities that are conducted under the forest management and stewardship programs approved by the State Forester, provided that tree climbing is not performed, aerial sectioning of trees does not occur, nor are aerial lifts, cranes, or rope and rigging operations used;

(3) Landscape or construction activities, including those performed by, or under the direction of, a landscaper, landscape architect, surveyor, clearing & grading contractor, or developer. For the purposes of this subsection, ground based landscape maintenance means operations that do not involve climbing, aerial sectioning of trees, the use of aerial lifts, cranes, rope and rigging operations, or the removal of trees over 6 inch D.B.H, or pruning above 12 feet above the ground;

(4) Ground-based landscape maintenance activities such as fertilization, insect and disease control, planting, transplanting and all other forms of ground-based landscape maintenance;

(5) Any employee of a municipality or county while engaged in the actual performance of his duties as an employee;

(6) Any electric membership corporation and any public utility, and any employee, contractor or subcontractor of any electric membership corporation or any public utility, and any employee, contractor or subcontractor of any of the foregoing, while engaged in any work related to the clearing, construction, operation, maintenance, repair or replacement of any utility facilities, property or easement.

LICENSING

(1) Procedures. All applications for licenses, certification and employee registration shall be made on the appropriate form required by the Commission and submitted to the Secretary, Tree Care Operations Commission, Georgia Department of Agriculture, Capitol Square, Atlanta, Georgia 30334.

(2) Certified Operators as a requirement of the license. All licensees must have at least one Certified Operator, and one Certified Operator who is specially certified in each of the three categories of Tree care operations in which the licensee is engaged, and at least one Certified Operator for every 20 workers employed in tree care operations. The primary function of the Certified Operators is to train, supervise, and lead the workforce.

(3) License categories and purposes. There are three categories of licenses, each which requires at least one Certified Operator as a responsible person. The categories are as follows:

(a) *General Tree Care Operators.* These operators engage in for-hire pruning and removal services, including managing labor & equipment operation in pursuit of the same. Unless otherwise certified, they may not engage in for-hire consulting or tree health management services. General Tree Care Operators may provide anecdotal advice to clients or potential clients but shall not imply verbally or in writing that their license confers or provides evidence of authority as it relates to arboricultural decision-making.

(b) Tree Health Care Operators. These operators engage in for-hire tree health management services, and use their knowledge of correct pesticide and chemical usage, disease-causing organisms, soil science, and tree biology in pursuit of the same. Unless otherwise certified, they may not engage in tree pruning or removal services, except as otherwise allowed under this Act. Tree Health Care Operators may provide market advice as it relates to tree health, but should not hold themselves out as consultants.

(c) Tree consulting Operators. These operators engage in for-hire tree consulting services, such as risk assessment, appraisal, inventories, construction mitigation plans, and the like. Unless otherwise certified, they may not engage in chemical or pesticide application, or tree pruning or removal services, except as otherwise allowed under this Act.

(4) License cost & duration. Certifications shall be for a period of five (5) years and may be renewed by demonstrating continued competency as a trainer and supervisor under subsection (8) below. Licenses and employee registrations, and research fees, shall be for a period of two (2) years or fraction thereof and shall expire on July 31 in each even numbered year. The two (2) year fee must be submitted, by check, money order or electronic fund transfer, with the application in the appropriate amount based upon the following:

Company License $100.00

Research Fee per Company License $70.00

Designated Operator Certification $100.00

Employee Registration $10.00

Duplicate Registration Card $10.00

If an application and fee for renewal of any license, certification or employee registration is not received by the Secretary on or before its expiration date, the above fees shall double and shall be paid before a renewal is issued. No Company License shall be issued or renewed for any license period until the research fee has been paid, and the research fee shall not be subject to any late penalty. In no case shall a certification or license be renewed after more than ninety (90) days from the July 31 expiration date without reexamination or reapplication, nor shall any license be renewed or reissued within the two (2) year license period without payment of the double fee. When the research fees collected for any two-year license period amount to $90,000, the Secretary shall forward such amount to the Chairman of the Forestry & Natural Resources Division of the University of Georgia, covering $45,000 for each of the two fiscal years within that license period.

(5) Certified Operator exams. Application for certification examination shall be submitted to the Secretary. An examination fee of forty-five (45) dollars per category shall be required each time an examination is taken. If an applicant fails part or all of the initial examination, he or she may retake the failed part(s) of the examination, upon reapplication and payment of another forty (45) dollars per category fee. If applicant fails the second examination, he or she may not subsequently retake the examination until one full year has elapsed since the examination was last taken. The payment of all examination fees shall be by check, money order or electronic fund transfer.

(6) Certified Operator eligibility requirements. An applicant for certification shall be of good moral character, be at least 18 years of age, and shall provide the Commission with satisfactory evidence of his or her qualifications including one of the following:

(a) Two (2) years of actual service experience as an employer, employee or owner-operator in the Tree care operations category(ies) in which certification is sought. One (1) year shall have been within the last five (5) years. Specialized category training under university or college supervision may be substituted for practical experience at the ratio of one year of training for one-fourth year experience.

(b) A degree from a recognized College or University with advanced training or a major in arboriculture, forestry, or related subjects and one (1) year of actual service experience within the last five years under appropriate supervision in the category(ies) in which certification is sought.

Furthermore, for those seeking certification as a Tree health care operator or Tree consulting operator, the applicant must provide the Commission, with the application for examination, with both of the following *for each* category in which the applicant desires certification:

(a) A list of at least 6 projects in which the applicant participated, including the inputs and outputs of each project and a description of the applicant's role. Applicants must

demonstrate the ability to autonomously lead a variety of project types to a successful conclusion for consumers.

(b) An external certification or license recognized by the Commission. This will be satisfied by obtaining any of the following certifications: ISA-Certified Arborist®, ISA-Board-Certified Arborist®, ASCA Registered Consulting Arborist®, Certified Urban Forester (CaUFC)®, or any other certification that the Commission deems appropriate for demonstrating knowledge of arboriculture.

(7) Certification Exam. Applicants shall demonstrate competency in tree care operations and in the requirements of this Act as determined by an appropriate and written examination, covering standards set forth in Title XXX* of the XXX* as applicable by scoring a grade of at least seventy (70%) in each category in which certification is sought. A person who has passed the examination(s), meets the requirements herein to the satisfaction of the Commission, will be awarded the appropriate certification, which is valid for 5 years.

(8) Licenses publicly available. All licenses shall be displayed in a conspicuous place in the licensed office. All operators and employees shall always carry their certification and registration cards on their person when they are soliciting or performing tree care operations.

(9) Re-certification. As a condition for biennial renewal of operator licensure under the Act, all certified operators shall be subject to recertification every five (5) years under the standards contained in Title 40, Code of Federal Regulations, 171.4(b),171.4(c)(7) and 171.6, as applicable. Certified Operators shall complete one of the following requirements prior to expiration of the five (5) year certification period:

(a) Accumulate hours of creditable training at the rate of thirty-five (35) hours in Safe Work Practices, twenty (20) hours in Training & Communication, and twelve (12) hours in Leadership & Change Management. Such creditable training may consist of Commission approved seminars, short courses, workshops or other privately or publicly sponsored training programs that cover changes in technology and other subject matter necessary to insure continued operator competence. Computer based training shall be limited to no more than 10 hours Safe Work Practices, 10 hours for Training & Communication, and 5 hours for Leadership & Change Management. All creditable recertification training must be completed at least ninety (90) days prior to the expiration date of the operator certification.

(b) Pass a written examination.

RESPONSIBILITIES OF THE LICENSEE, DESIGNATED CERTIFIED OPERATOR, EMPLOYEE, AND SECRETARY

(1) Insurance types required. The licensee shall submit a certificate of insurance or letter of credit of type and amount as required by the Commission. Said security(ies) shall be adequate in accordance with the operational category(ies) in which the licensee operates, with specific submittal requirements for the insurance as outlined below:

(a) For General tree care operations, licensees shall submit certificates for worker's compensation insurance and general liability.

(b) For Tree health care operations, licensees shall submit certificates for worker's compensation insurance and general liability.

(c) For Tree consulting operations, licensees shall submit certificates for errors & omissions (E&O) insurance and general liability.

(2) Insurance Limits. For any required workers compensation insurance policy, the limits shall be the state statutory limits and be accompanied by declarations page and exposure rating sheet. For any general liability insurance policy, the limits shall be at least 2-million-dollar aggregate, and 1 million dollar per occurrence. For any required E&O insurance policy, the limits shall be at least 1-million-dollar aggregate, and 1 million dollar per occurrence. For any required insurance policy, the Licensee shall provide a notice of 30-day notice of cancellation endorsement to the Secretary.

Insurance policies that cover operations in multiple categories are acceptable.

(3) Insurance Lapse. The Secretary shall, upon receiving notice of a lapse of insurance, immediately notify the licensee, and will suspend their license within 3 days unless valid insurance certificates are provided. If insurance is not reestablished within 15 days following suspension, the license will be cancelled.

(4) Designated Certified Operator. Each licensee shall designate a Designated Certified Operator for each operational category, who may be the same person if certified in multiple categories, who shall be an employee of the licensee and be in charge of and actively participate in providing adequate personal supervision in the tree care operations of each office, but are not limited to proper training of employees, review of employee qualifications, review of training records, reviewing proper chemical application volumes, and ensuring the proper use, storage and disposal of chemicals & pesticides, subject to the following:

(a) The licensee shall be responsible for the actions of its Certified Operator(s). No Certified Operator may serve for more than one licensee except as provided in (1)(b) below.

(b) No tree care operations may be performed by a licensee without a Certified Operator. If a licensee loses a Certified Operator through an unplanned separation or event of crisis, other than the intentional or forced transfer of a Certified Operator from one licensee office to another, the licensee shall notify the Commission immediately. A licensee who has lost his Certified Operator may obtain the services of a Certified Operator who is in the employment of another licensee, and who may serve as the Certified Operator for both licensees for not more than ninety (90) days. The licensee shall notify the Commission immediately of the dual service of such Certified Operator.

(c) If the residence of the Certified Operator is not within normal commuting distance or is more than 100 miles from the office he is supervising, or if the Certified Operator is employed in more than one (1) occupation, the Commission may require such Designated Certified Operator to appear in person or furnish information in writing to show that he or she is personally directing, supervising and controlling the operational activities of the licensee.

(6) Registering of employees. The Licensee shall be responsible for registering all non-certified employees involved in tree care operations with the Secretary. No employee shall be allowed to solicit any business or engage in Tree consulting operations except if they are a Certified Operator or under the direct, on-site supervision of a Certified Operator. No employee shall be allowed to solicit any business or engage in General tree care operations or Tree health care operations except in the presence of a Certified Operator or another registered employee until such employee has satisfied all training requirements for employee registration or re-registration as set forth below:

(a) For General tree care operators, twenty (20) hours of documented classroom training, computerized-based training, or formalized hands-on training approved by the Commission and presented by a currently Certified Operator or other person whom the Commission has determined to be competent to deliver training in the following areas:

(i) State and Federal laws and regulations that pertain to the practice of arboriculture or tree care, including laws incorporated by reference specific to the tree care industry, such as the ANSI Z133.1 standard. This shall include some mention of the duties assigned, respectively, to employer and employees under the Occupation Safety and Health ACT (OSHA) – *minimum 1 hour.*

(ii) This Act – *minimum 1 hour.*

(iii) Proper use of PPE (Personal Protective Equipment) – *minimum 2 hours.*

(iv) Chainsaw operations & ground operations including tree felling. – *minimum 2 hours.*

(v)Tree climbing, working aloft, and related fall protection procedures – *minimum 2 hours.*

(vi) Rigging, friction devices, rope handling, and knot tying – *minimum 2 hours.*

(vii) Chippers, Bucket trucks, Cranes, skid-steers, or similar equipment in accordance with the Licensee's operations – *minimum 2 hours.*

(viii) Electrical Hazards in the context of tree care operations – *minimum 2 hours.*

(ix) Safe Operation of Motor Vehicles and Commercial Motor Vehicle – *minimum 2 hours.*

(x) State & municipal requirements for operations / procedures upon which tree care operations may be dependent, such as tree permitting, street closure permitting, traffic control requirements, 811 & overhead locate, and related documentation – *minimum 1 hour*.

(b) For Tree health care operators, ten (10) hours of documented classroom or formalized hands-on training approved by the Commission and presented by a currently certified operator or other person whom the Commission has determined to be competent to deliver training in the following areas:

(i) State and Federal laws and regulations that pertain to the practice of arboriculture or tree care, including laws incorporated by reference specific to the tree care industry, such as the ANSI Z133.1 standard. This shall include some mention of the duties assigned, respectively, to employer and employees under the Occupation Safety and Health ACT (OSHA) – *minimum 1 hour.*

(ii) This Act – *minimum 1 hour.*

(iii) The current pests & ailments that are affecting Georgia's tree population – *minimum 2 hours.*

(iv) How to read & interpret a pesticide label. – *minimum 1 hour.*

(v)Handling of emergencies & spills, including signs and symptoms of pesticide poisoning, emergency treatment for pesticide exposure, how to obtain more comprehensive care for exposure to chemicals, and decontamination procedures – *minimum 1 hour.*

(vi) Safety and health issues including proper use of personal protective equipment, hazards posed by the toxicity and exposure of pesticides, including acute and delayed reactions and routes of exposure – *minimum 1 hour.*

(vii) Potential adverse effects caused by various climatic or environmental conditions such as drift, run off, and groundwater contamination - *minimum 1 hour.*

(d) Payment by the Licensee of a registration fee of ten (10) dollars to the Secretary within ninety (90) days of notification of completing the required training.

(e) Issuance of an employee registration card by the Secretary. While waiting for the issuance of the registration card, an applicant may act as a registered employee for a period not to exceed 15 business days after presenting of the training documentation and payment of the registration fee, until the registration card is received. In the event that a registration card is lost, a duplicate card may be issued by the Secretary for a ten (10) dollar fee.

(f) Issuance of a new card by the Secretary for an employee who is employed by a new firm but who has previously satisfied the training and other requirements for initial registration and is currently registered as an employee with another licensee. Fee for issuance of such a registration card will be ten (10) dollars.

(g) All employee registrations shall expire on July 30 of each even-numbered year unless the registered employee has earned the hours of recertification training per category approved by the Commission prior to April 1 of each even-numbered year. The registration of any employee who becomes registered after July 1 of any odd-numbered year shall be eligible for renewal for the succeeding two-year period without earning the required re-registration hours. The Licensee shall pay the renewal fee of ten (10) dollars to the Secretary by July 31 for any employee who has earned the hours of approved training required, or who is otherwise eligible for renewal. Any renewal fee paid August 1 through October 30 shall be twenty (20) dollars. Any employee who fails to renew registration before November 1 must complete all requirements for initial registration before being registered again. The Licensee shall notify the Secretary of employees involved in the solicitation or performance of tree care operations who fail to become registered within 30 days of employment.

(7) Registering of sub-contractors. Only another licensed Tree care operator may perform sub-contracted services under this Act. Each licensee that pays or contracts in an amount equal to or exceeding $600 to a sub-contractor that performs in any category of Tree care operations shall register that sub-contractor with the Secretary. There is no fee to register a sub-contractor under a license. No sub-contractor shall be allowed to solicit any business or engage in General tree care operations, Tree health care operations, or Tree consulting operations on behalf of a licensee until such licensee and subcontractor have satisfied the necessary requirements as set forth below:

(a) A licensee shall, prior to a sub-contractor performing work in excess of $600 under a phase of tree care operations, ensure that the sub-contractor holds a license under

this Act in the operational category for which they perform services for the licensee, by checking directly with the Commission.

(b)sub-contractors must provide to the licensee a document, in the form of a contract, agreement, work order, or service order, which states the scope of service to be offered, and the terms and conditions of that service.

(c) The licensee shall, at least 3 days prior to the subcontractor performing work under a phase of Tree care operations, submit a form to register the sub-contractor with the Secretary.

(d) The Secretary shall, when any license under this Act has been revoked, cancelled, or suspended, immediately notify any other licensee to whom the revoked, suspended, or cancelled license was registered as a sub-contractor, and state that the registered sub-contractor in question cannot be lawfully used for sub-contracted activities by the licensee. The Secretary is under no obligation to inform licensees of the particular reason for the notification, nor to re-inform anyone that a previously registered sub-contractor has regained the privileges of a license if and when they do.

A licensee is under no obligation under this Act to report or register sub-contractors who are performing services in a trade other than tree care operations.

(8) The Commission's duties. The commission shall provide applications for licenses or certifications on forms prescribed and furnished by the board, which shall contain statements under oath showing the applicant's education or other qualification for licensure.

(a) A license may be issued in the name of an individual, corporation, firm, partnership, or other form of business organization, however if it not issued in the name of an individual, all individuals (principals) or corporations that own more than 5% of the outstanding stock must be listed, together with their addresses, on the license.

(b) Only an Individual may be Certified**.** A certification shall not be issued in the name of corporation, firm, partnership, or other form of business organization.

(c) *Review of Documents*. The Commission shall make a determination regarding the validity or suitability of documents for the stated purpose under this Act. For purposes of establishing eligibility for Certification, credible employment history can be documented by employee registration or letters of support from previous employees. Resumes and CVs are not considered a sufficient basis upon which to

establish employment history. The Commission is under no obligation to do research to establish experience on behalf of an applicant.

(d) *Recordkeeping.* The board shall maintain a record of all organizational applicants for licensure, including the names and addresses of any principals under subsection (a) above, and all individual applicants for licensure and certifications, including the person's name, age, education, and other qualifications, the person's place of residence, the location in which the person is employed, and a record of the person's fulfillment of any continuing education requirements established by this act.

CONTRACTS & ADVERTISING

(1) Market Transparency. The Licensee shall permanently mark all the Licensee's vehicles and mobile equipment used regularly for sales and service, in bold-print letters not less than two (2) inches in height and on contrasting background, with the name of the Licensee. The Licensee shall insure that all privately owned vehicles and mobile equipment, during use for sales and service on behalf of the Licensee, are identified by the same information as required for the Licensee's vehicles by permanent markings firmly attached to the outside of the privately owned vehicle.

(2) License used for ID. Use of licenses or registration cards for any purpose other than identification is unlawful.

(3) No claim of obligation. No person shall make any claim in any form of advertising that tree inspections, or tree services of any kind are required, authorized, endorsed or approved by the Commission or any agency of the State or Federal Government.

(4) Contract Clarity. Tree care operators shall provide a written contract to prospective clients, that shall include two (2) parts; one, the scope of services; and two, the terms and conditions under which the services are to be provided. No Operator shall offer services or profess expertise in services that fall outside of their category. The following conditions apply:

(a) *Consulting Services.* The licensee shall specify the deliverable(s) and the basis for pricing within the scope of services portion of the contract. The words, "provide a report that summarizes findings…." should be used to avoid ambiguity regarding the consulting deliverable.

(b) *Licensure is not insurance.* No operator shall imply in any portion of a contract that insurance, proof of insurance, or responsibility for damages, whether insured or not, is obviated by licensure, assumed by the Commission or the State, or in any way external to the licensee.

(c) *Responsibility.* No contract shall contain clauses within the terms & conditions portion of the contract that releases the Operator of liability for worker injuries sustained during operations or for negligent destruction of property.

(d) *Removal Services.* The licensee should specify the method used, any property damage which will willfully and/or necessarily occur in the course of the work, and any tree debris which is to be left on-site, if applicable, and the basis for pricing within the scope of services portion of the contract.

(e) *Pruning Services.* The licensee should specify which portions of the tree are to be pruned, including approximate number and diameter of limbs where practical, and the basis for pricing within the scope of services portion of the contract.

(5) Performance Bonds. While tree care operators are not required to maintain performance bonds, any licensee who advertises or otherwise represents itself as being bonded shall: (a) Maintain a master or blanket bond in an amount equal to five (5) percent of the previous year's gross sales or gross liability assumed during the previous year, whichever is higher, up to a maximum of $100,000.00 or; (b) Provide a separate bond for each job; (c) Advise each customer in writing, as a part of every proposal or contract, whether or not such proposal or contract is covered by such bond; (d) Submit to the Commission proof of the existence and the type of bonding which the licensee has in force; (e) Not advertise in any way that the licensee is bonded, unless the licensee has complied with the foregoing requirements.

REVOCATION OF A LICENSE, CERTIFICATION, OR REGISTRATION

(1) Commission hearings. Whenever it shall appear to the Commission or the Department of Agriculture that a person has engaged in, or is engaging in, any unlawful activity under the provisions of this act, the person may be required to file, on a form prescribed by regulation, a statement in writing under oath as to the facts and circumstances concerning the rendering of any service or other violation of this act.

The Commission may question a person or persons in connection with any act or practice subject to the Act, inspect any premises upon which any violation is alleged to have taken place or premises that constitute the licensee's place of business, and examine any record, book, document, account or paper maintained by or for any licensee in the conduct of his business. The Commission shall consider all previous or current owners or principals of a licensee to represent the licensee, and may question them jointly or separately as required to make determinations under this Act.

A license application, certification or registration may be denied, suspended, canceled or revoked by the Commissioner, after notice and hearing, in accordance with requirements of the Georgia Administrative Procedure Acts for any violation of the Act or any rule promulgated thereunder, including, but not limited to:

(a) Misrepresentation for the purpose of defrauding, deceiving, or defrauding another;

(b) Has failed to demonstrate compliance with the requirements of licensure, such as maintaining insurance, training employees, or ensuring the presence of Certified Operator(s) under this Act, or with any other regulation promulgated under this Act as determined by the Board;

(c) Engaging in or inducing others to engage in unsafe acts or use unsafe equipment; using any pesticide in a manner inconsistent with its labeling; or any other act that endangers workers, consumers, or the public as determined by the Commission or Commissioner;

(d) Failing to give the Commission or the Commissioner or his authorized representative, upon request, records of training, true information regarding the identification of principals, employment practices, work methods, or other information essential to the administration of the act.

(2) Failure to renew or re-certify. The certification of any certified operator who fails to renew as required by Section 620-3-.03 shall become revoked through operation of law upon the date of expiration of the certification.

PENALTIES

(1) Crimes. Any person who shall violate any provision of this Act or any rule promulgated thereunder or who shall interfere with or obstruct any employee of the Enforcement Agency in the discharge of his duties, shall, upon conviction thereof, be guilty of a misdemeanor and shall be punished therefor as provided by law.

(2) Injunction. The Commissioner is authorized to initiate action to enjoin any violation of this Act or any rule promulgated thereunder and such injunction may be maintained notwithstanding any other available legal remedies, including pending or completed criminal prosecution.

OPTIONS & NOTES

The following alterations are contemplated:

(1) The following language could be used to change the implementation of the law in the beginning:

…Under LICENSING; subsection ***(6);*** add:

"Notwithstanding the provisions of subsections (4), for 360 days after the date regulations are promulgated pursuant to the provisions of this act, any person of good moral character who has documented to the satisfaction of the board that he has been engaged in the practice of arboriculture for two (2) years preceding the effective date of this act may acquire a license as a certified General tree care operator without sitting for an examination pursuant to subsection b. of this section, pursuant to regulations established by the board. Licenses issued pursuant to this subsection shall be renewed biennially. Persons licensed under this act shall receive a certificate evidencing their licensure. Any person licensed as a certified General tree care operator may subsequently apply for certification in another category upon meeting the qualifications."

(2) The following exception could simplify GA worker's comp legal interactions and allow an easier path for new entrants:

…Under RESPONISBILITIES OF THE LICENSEE, DESIGNATED CERTIFIED OPERATOR, EMPLOYEE, AND SECRETARY; ***(1) Insurance types required;*** add:

"EXCEPTION: All employers in General tree care operations are strongly encouraged to provide worker's compensation insurance for their employees. If a licensee employs 2 or less (non-officer) workers, under GA law they are not obligated to provide worker's compensation insurance for their workers. If any licensee under this Act chooses not to provide worker's compensation insurance, they must submit individual attestation from each of their workers acknowledging the lack of coverage for workplace injuries. Licensees that avail themselves of this exception must still register workers under this Act."

(3) The following exception could allow for employee registering to be automatically granted for the first 2 years:

…Under RESPONSIBILITIES OF THE LICENSEE, DESIGNATED CERTIFIED OPERATOR, EMPLOYEE, AND SECRETARY; (***6) Registering of Employees***; a new sub-sub section:

"(h) Notwithstanding the provisions of subsections (6), for the first two-year (2) period of licensure that is granted to a company or individual, the training requirement for employees will be tolled and extended a period of twelve months, to allow for the implementation of training protocols."

(4) The following exception could allow for out-of-state operators who wish to assist with storm cleanup to come into compliance:

…Under RESPONSIBILITIES OF THE LICENSEE, DESIGNATED CERTIFIED OPERATOR, EMPLOYEE, AND SECRETARY; (***8) The Commission's duties***; a new sub-sub section:

"(d) The board may, in its discretion, grant a temporary license to a tree care operator – including waiving the requirement to license to any person who is not a resident of this State and who is the lawful holder of a substantially equivalent license or certification issued by another jurisdiction, as determined by the board. . The board shall: a. Review the qualifications of an applicant for licensure under the act; b. Establish standards for examinations for licensure; c. Issue and renew licenses and assess fees therefor; d. Establish standards by regulation, which shall include, but not be limited to, the appropriate standards of the American National Standards Institute (ANSI), and any related standards and best management practices; e. Suspend or revoke licenses or registrations for violations of the act; f. Maintain a registry of licensees; g. Adopt a canon of professional ethics; h. Adopt such regulations as may be necessary to effectuate the purposes of the act; i. Establish fees by regulation for examinations, applications for licensure, and license renewals. The fees shall be sufficient to defray expenses incurred by the board in the performance of its duties under the act; j. Conduct such worksite inspections as may be necessary to enforce the provisions of this act; and k. Maintain a registry of businesses engaged in tree care services, and charge a fee therefor."

(5) There is a conspicuous absence of available federal law pertaining to the safe practice of arboriculture.

…Under LICENSING; (***6) Certification Exam.*** An applicable standard should be selected or written, and referenced here: XXX*"

Speaker Burns, these are the findings of the House Study Committee on Safety and Consumer Protection in the Tree Care Industry.

Respectfully Submitted,

The Honorable Victor Anderson
Representative, 10th District,
Chairman