

# 2013 -- H 5480 SUBSTITUTE A

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LC00989/SUB A  
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## STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO AGRICULTURE AND FORESTRY -- RIGHT TO FARM

Introduced By: Representatives Lima, Palumbo, Mattiello, and Jacquard

Date Introduced: February 14, 2013

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 2-19-1 and 2-19-3 of the General Laws in Chapter 2-19 entitled  
2 "Arborists" are hereby amended to read as follows:

3           **2-19-1. Practices subject to chapter.** -- The term arborist as used in this chapter means  
4 any person, firm or corporation who makes a business or practice of pruning, trimming, spraying  
5 or repairing fruit, shade and ornamental trees, and includes any lines of work that are commonly  
6 included under the terms tree surgery, tree dentistry, tree spraying, tree pruning, and the work of  
7 foresters and entomologists as applied to the care of fruit, shade, forest and ornamental trees and  
8 shrubs. [The provisions of this chapter shall not apply to the Rhode Island resource recovery](#)  
9 [corporation established in chapter 23-19.](#)

10           **2-19-3. Rules and regulations -- Examination for license.** -- The director of  
11 environmental management is authorized to make rules and regulations governing the practice of  
12 arborists and shall demand of any person, firm or corporation desiring to engage in the art or trade  
13 of treating and caring for trees as defined in section 2-19-1, that they pass an examination to show  
14 their ability or capability to practice the art or trade of arborist. [The director is further authorized](#)  
15 [to make rules and regulations to carry out the provisions of this chapter, including rules and](#)  
16 [regulations governing mulching operations and arboriculture operations as those terms are](#)  
17 [defined in section 2-19-4.5.](#)

18           SECTION 2. Chapter 2-19 of the General Laws entitled "Arborists" is hereby amended  
19 by adding thereto the following sections:

1           **2-19-4.1. Arboriculture and mulching operations defined. -- (a) As used in this**  
2 chapter:

3           (1) "Arboriculture" means the business or practice of pruning, trimming, spraying or  
4 repairing fruit, shade and ornamental trees, and includes any lines of work that are commonly  
5 included under the terms tree surgery, tree dentistry, tree spraying, tree pruning, and the work of  
6 foresters and entomologists as applied to the care of fruit, shade, forest and ornamental trees and  
7 shrubs.

8           (2) "Mulch" means any type of forest material, vegetative matter resulting from  
9 landscaping maintenance or land clearing operations and includes materials such as tree and  
10 shrub trimmings, tree and shrub roots, tree trunks, branches, leaves and tree stumps, that is  
11 produced for the purpose of spreading or application over the surface of the soil as a protective  
12 cover, to retain moisture, reduce erosion, provide nutrients, and suppress weed growth, seed  
13 germination and for general landscaping purposes.

14           (3) "Mulching operation" means any commercial enterprise operating on at least five (5)  
15 contiguous acres or larger, which is owned or operated by a licensed arborist pursuant to this  
16 chapter, and has as its primary purpose the production or storage of mulch.

17           (4) "Arboriculture operations" means any commercial enterprise operating on at least five  
18 (5) contiguous acres or larger, which is owned or operated by a licensed arborist pursuant to this  
19 chapter, and has as its primary purpose arboriculture.

20           (b) Arboriculture operations and mulching operations shall be subject to the requirements  
21 of chapter 2-15.

22           **2-19-4.2. Nuisance actions against arboriculture operations or mulching operations.**

23           **-- (a) No arboriculture operation or mulching operation, as defined in this chapter may be found**  
24 **to be a public or private nuisance, due to alleged objectionable:**

25           (1) Noise from equipment used in normal, generally accepted arboriculture or mulching  
26 operations;

27           (2) Dust created from normal, generally accepted arboriculture or mulching operations;

28           (3) Use of pesticides, rodenticides, insecticides, herbicides, or fungicides.

29           This provision pertains only to nuisance actions under chapter 1 of title 10.

30           (b) No rule or regulation of the department of transportation shall be enforced against any  
31 arboriculture operation or mulching operation to prevent it from placing a seasonal directional  
32 sign or display on the state's right-of-way, on the condition that said sign or display conforms  
33 with the local zoning ordinance, and that sign or display is promptly removed by the arboriculture  
34 operation or mulching operation upon the conclusion of the season for which said sign or display

1 was placed.

2 (c) The provisions of this section do not apply to arboriculture operations or mulching  
3 operations that operate in a malicious or negligent manner, or that conduct operations in violation  
4 of federal or state law.

5 SECTION 3. This act shall take effect on July 1, 2013.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would define arboriculture and mulching operations relative to certain nuisance  
2 actions.

3           This act would take effect on July 1, 2013.

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