

1 S.190

2 Introduced by Senators Hardy, Perchlik, Bray, Pearson and Ram Hinsdale

3 Referred to Committee on

4 Date:

5 Subject: Trees; replanting; Agency of Transportation; State highway right-of-
6 way; landscaping; streetscaping

7 Statement of purpose of bill as introduced: This bill proposes to require the
8 Agency of Transportation to work with effected municipalities on replanting
9 trees when certain trees are removed from the State highway right-of-way and
10 require additional landscaping and streetscaping in certain areas along State
11 highways.

12 An act relating to tree replanting in the State highway right-of-way and
13 Agency of Transportation landscaping and streetscaping

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 19 V.S.A. § 10b is amended to read:

16 § 10b. STATEMENT OF POLICY; GENERAL

17 (a) The Agency shall be the responsible agency of the State for the
18 development of transportation policy. It shall develop a mission statement to
19 reflect:

1 (1) Develop or incorporate designs that provide integrated, safe, and
2 efficient transportation and that are consistent with the recommendations of the
3 CEP.

4 (2)(A) Consider the safety and accommodation of all transportation
5 system users—including motorists, bicyclists, public transportation users, and
6 pedestrians of all ages and abilities—in all State- and municipally managed
7 transportation projects and project phases, including planning, development,
8 construction, and maintenance, except in the case of projects or project
9 components involving unpaved highways. If, after the consideration required
10 under this subdivision, a State-managed project does not incorporate complete
11 streets principles, the project manager shall make a written determination,
12 supported by documentation and available for public inspection at the Agency,
13 that one or more of the following circumstances exist:

14 (i) Use of the transportation facility by pedestrians, bicyclists, or
15 other users is prohibited by law.

16 (ii) The cost of incorporating complete streets principles is
17 disproportionate to the need or probable use as determined by factors including
18 land use, current and projected user volumes, population density, crash data,
19 historic and natural resource constraints, and maintenance requirements. The
20 Agency shall consult local and regional plans, as appropriate, in assessing
21 these and any other relevant factors.

1 (iii) Incorporating complete streets principles is outside the scope
2 of a project because of its very nature.

3 (B) The written determination required under subdivision (A) of this
4 subdivision (2) shall be final and shall not be subject to appeal or further
5 review.

6 * * *

7 (5) Ensure that if a project or maintenance activity is in an area where
8 housing predominates, a downtown, or a village center that landscaping and
9 streetscaping is incorporated into the design, even if other complete streets
10 principles are not incorporated under subdivision (2) of this subsection.

11 * * *

12 Sec. 2. 19 V.S.A. chapter 9, subchapter 9 is added to read:

13 Subchapter 9. Public Street Trees

14 § 1001. DEFINITIONS

15 As used in this subchapter:

16 (1) “Diameter breast height (DBH)” means the diameter of a standing
17 tree at four and one-half feet from the ground.

18 (2) “Legislative body of the municipality” means, for the municipality
19 where a public street tree is removed, the legislative body of the municipality
20 and the tree warden of the municipality, if one exists.

1 (3) “Public street tree” means a woody, single-stemmed type of
2 vegetation that is located in whole or in part within the limits of a State
3 highway right-of-way.

4 (4) “Stump diameter” means the diameter of a tree stump remaining
5 after cutting, felling, or destruction.

6 § 1002. REMOVAL OF PUBLIC STREET TREES BY THE AGENCY OF
7 TRANSPORTATION

8 (a) Notice. The Agency shall not remove a public street tree that is more
9 than six inches in stump diameter or DBH without providing written notice to
10 the abutting landowner and legislative body of the municipality.

11 (b) Replanting plan. If the Agency removes a public street tree that is more
12 than 10 inches in stump diameter or DBH in an area where housing
13 predominates, a downtown, or a village center, it shall, in consultation with the
14 legislative body of the municipality, develop a public street tree planting plan
15 that:

16 (1) is consistent with any shade tree preservation plans adopted pursuant
17 to 24 V.S.A. § 2502;

18 (2) is consistent with any shade tree ordinances adopted pursuant to
19 24 V.S.A. § 2502;

1 (3) ensures that the not less than the total number of public street trees
2 that are more than 10 inches in stump diameter or DBH that are removed are
3 replaced;

4 (4) meets any applicable requirements of a permit required under section
5 1111 of this title; and

6 (5) comports with the Agency's policy on Planting Public Street Trees
7 in State Highway Rights of Way, as amended or replaced, and any other
8 Agency policies on tree planting or replanting.

9 Sec. 3. 19 V.S.A. § 1002(c) is added to read:

10 (c) Transportation Program. Not less than 80 percent of the construction
11 and planting costs of the replanting plan required under subsection (b) of this
12 section shall be included in the State's Transportation Program, either as a
13 project or part of the maintenance budget.

14 Sec. 4. DEVELOPMENT OF A LANDSCAPING, STREETSCAPING, AND
15 TREE REMOVAL AND REPLANTING POLICY

16 (a) The Agency of Transportation shall develop a landscaping,
17 streetscaping, and tree removal and replanting policy that is consistent with
18 19 V.S.A. § 10b as amended by Sec. 1 of this act and 19 V.S.A. §§ 1001 and
19 1002 as added by Secs. 2 and 3 of this act. The policy shall also address
20 shared maintenance responsibilities between the Agency and municipalities for

1 any public street trees that are planted in accordance with a public street tree
2 planting plan.

3 (b) The Agency of Transportation shall file a copy of the policy required
4 under subsection (a) of this section with the House and Senate Committees on
5 Transportation, the House Committee on Natural Resources, Fish, and
6 Wildlife, and the Senate Committee on Natural Resources and Energy on or
7 before January 15, 2023.

8 Sec. 5. EFFECTIVE DATES

9 (a) This section and Sec. 4 (landscaping, streetscaping, and tree removal
10 and replanting policy) shall take effect on July 1, 2022.

11 (b) Sec. 2 (subchapter on public street trees; 19 V.S.A. chapter 9,
12 subchapter 9) shall take effect on July 1, 2022.

13 (c) Sec. 1 (general statement of policy; 19 V.S.A. § 10b) shall take effect
14 on July 1, 2022 and apply to Transportation Programs commencing with fiscal
15 year 2024.

16 (d) Sec. 3 (payment for replanting plan; 19 V.S.A. § 1002(c)) shall take
17 effect on July 1, 2023 and apply to Transportation Programs commencing with
18 fiscal year 2024.