

STATE OF NEW YORK

3604--B

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

Introduced by M. of A. BURKE -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to creating the Great Lakes bill of rights

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Article 17 of the environmental conservation law is amended
2 by adding a new title 23 to read as follows:

TITLE 23

GREAT LAKES BILL OF RIGHTS

5 Section 17-2301. Declaration of rights.

6 17-2303. Violations.

7 § 17-2301. Declaration of rights.

8 1. Rights of the Great Lakes ecosystem. The Great Lakes, and the
9 watersheds that drain into the Great Lakes and their connecting chan-
10 nels, shall possess the unalienable and fundamental rights to exist,
11 persist, flourish, naturally evolve, regenerate and be restored by
12 culpable parties, free from human violations of these rights and unen-
13 cumbered by legal privileges vested in property, including corporate
14 property. The Great Lakes ecosystem shall include all natural water
15 features, communities of organisms, soil as well as terrestrial and
16 aquatic sub ecosystems that are part of the Great Lakes and their
17 watersheds and connecting channels.

18 2. Right to a clean and healthy environment. The people and the
19 natural environment, including each ecosystem of the state of New York
20 shall possess the right to a clean and healthy environment, which shall
21 include the right to clean and healthy Great Lakes and the Great Lakes
22 ecosystem.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 3. Right to freedom from toxic trespass. The people of the state of
2 New York, as well as the Great Lakes ecosystem, and the watersheds that
3 drain into the Great Lakes and their connecting channels, shall possess
4 a fundamental and unalienable right to the integrity of their bodies,
5 ecosystems and physical aspects, and to be free from toxic trespass upon
6 or within them; therefore, the right to be free from toxic trespass
7 shall not be violated. As used herein, the term "toxic trespass" shall
8 mean the intentional, unwitting, involuntary or neglectful deposition of
9 toxic or potentially toxic substances within a human or non-human body
10 or ecosystem.

11 4. Right to freedom from monetization. The Great Lakes ecosystem shall
12 possess the unalienable and fundamental rights not be owned, privatized
13 or monetized. These rights shall include emancipation from all claims of
14 vested property rights to the extent that such rights purport to allow
15 the violation of the rights of the Great Lakes ecosystem or the people
16 of the state of New York. Prohibited monetization of the Great Lakes
17 ecosystem shall include but not be limited to, carbon trading, natural
18 asset companies, ecosystem services, and patenting of life forms.

19 5. Rights as self-executing. All rights secured by this title shall be
20 inherent, fundamental, and unalienable, and shall be self-executing and
21 enforceable against both private and public sectors.

22 § 17-2303. Violations.

23 1. It shall be unlawful for any person to violate the rights recog-
24 nized and secured by this title.

25 2. No permit, license, privilege, charter, or other authorization
26 issued to a person or business entity by any governmental entity that
27 would violate the prohibitions of this title or any rights secured by
28 this title shall be deemed valid within the state.

29 § 2. The environmental conservation law is amended by adding a new
30 section 71-1947 to read as follows:

31 § 71-1947. Enforcement of title 23 of article 17.

32 1. Any person, business entity or government agency that violates any
33 provision of title 23 of article 17 of this chapter shall be guilty of a
34 violation and, upon conviction thereof, shall be sentenced to pay a fine
35 of no more than five hundred dollars for each such violation. Each day
36 or portion thereof where a violation occurs shall count as a separate
37 violation.

38 2. The commissioner shall enforce the rights and prohibitions of title
39 23 of article 17 of this chapter.

40 3. Any person, business entity or government agency engaged in activ-
41 ities that violate the rights of the Great Lakes ecosystem, regardless
42 of the jurisdiction in which such activity takes place, shall be strict-
43 ly liable for all harms and rights violations resulting from those
44 activities. Damages shall be measured by the cost of restoring the
45 Great Lakes ecosystem and its constituent parts at least to their status
46 immediately before the commencement of the acts resulting in injury, and
47 shall be paid to the state to be used exclusively and without exception
48 for the full and complete restoration of the Great Lakes ecosystem and
49 its constituent parts to that status.

50 4. The municipalities and counties of the state of New York shall
51 possess legal authority to enact and enforce laws that protect the
52 rights and other provisions of title 23 of article 17 of this chapter,
53 including but not limited to, regulations and prohibitions, free from
54 state preemption or challenge by the assertion of competing rights of
55 corporations.

56 § 3. This act shall take effect immediately.