

# STATE OF NEW YORK

4344

2023-2024 Regular Sessions

## IN ASSEMBLY

February 14, 2023

Introduced by M. of A. BURKE, RIVERA, WALLACE -- read once and referred to the Committee on Environmental Conservation

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:

3 TITLE 23

4 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.

23 3. Right to freedom from toxic trespass. The people of the state of  
24 New York, as well as the Great Lakes ecosystem, and the watersheds that  
25 drain into the Great Lakes and their connecting channels, shall possess

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

LBD03034-01-3

1 a fundamental and unalienable right to the integrity of their bodies,  
2 ecosystems and physical aspects, and to be free from toxic trespass upon  
3 or within them; therefore, the right to be free from toxic trespass  
4 shall not be violated. As used herein, the term "toxic trespass" shall  
5 mean the intentional, unwitting, involuntary or neglectful deposition of  
6 toxic or potentially toxic substances within a human or non-human body  
7 or ecosystem.

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

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

19 § 17-2303. Violations.

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

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

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

28 § 71-1947. Enforcement of title 23 of article 17.

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

35 2. The commissioner shall enforce the rights and prohibitions of title  
36 23 of article 17 of this chapter.

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

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

53 § 3. This act shall take effect immediately.