STATE OF NEW YORK

6313

2019-2020 Regular Sessions

IN ASSEMBLY

March 5, 2019

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

AN ACT to amend the environmental conservation law, in relation to creating a Lake Erie bill of rights

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

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

TITLE 23

LAKE ERIE BILL OF RIGHTS

Section 17-2301. Declaration of rights.

17-2303. Violations.

§ 17-2301. Declaration of rights.

1. Rights of Lake Erie ecosystem. Lake Erie, and the lake Erie watershed, shall possess the right to exist, flourish, and naturally evolve. The Lake Erie ecosystem shall include all natural water features, communities of organisms, soil as well as terrestrial and aquatic sub ecosystems that are part of Lake Erie and its watershed.

2. Right to a clean and healthy environment. The people of the state of New York shall possess the right to a clean and healthy environment, which shall include the right to a clean and healthy Lake Erie and Lake Erie ecosystem.

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

§ 17-2303. Violations.

1. It shall be unlawful for any person to violate the rights recognized and secured by this title.

2. No permit, license, privilege, charter, or other authorization issued to a person by any governmental entity that would violate the

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

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prohibitions of this title or any rights secured by this title shall be deemed valid within the state.

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

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

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

2. The commissioner shall enforce the rights and prohibitions of title 23 of article 17 of this chapter. In such an action, the state or the resident shall be entitled to recover all costs of litigation, including, without limitation, witness and attorney fees.

3. Persons engaged in activities that violate the rights of the Lake Erie ecosystem, in or from any jurisdiction, shall be strictly liable for all harms and rights violations resulting from those activities. Damages shall be measured by the cost of restoring the Lake Erie ecosystem and its constituent parts at least to their status immediately before the commencement of the acts resulting in injury, and shall be paid to the state to be used exclusively for the full and complete restoration of the Lake Erie ecosystem and its constituent parts to that status.

§ 3. This act shall take effect immediately.