

STATE OF NEW YORK

3604--A

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

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

3 Section 17-2301. Declaration of rights.

4 17-2303. Violations.

5 § 17-2301. Declaration of rights.

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

16 2. Right to a clean and healthy environment. The people of the state
17 of New York shall possess the right to a clean and healthy environment,
18 which shall include the right to clean and healthy Great Lakes and the
19 Great Lakes ecosystem.

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

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

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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. Natural persons and communities of
37 people living within the Great Lakes ecosystem shall also possess the
38 right and authority to enforce the rights of the Great Lakes ecosystem
39 through an action in equity brought in the name of the Great Lakes
40 ecosystem. In such an action, the state, or the human plaintiff shall be
41 entitled to recover all costs of litigation, including, without limita-
42 tion, witness and attorney fees, severally and jointly from culpable
43 parties.

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

54 4. The municipalities and counties of the state of New York shall
55 possess legal authority to enact and enforce laws that protect the
56 rights and other provisions of title 23 of article 17 of this chapter,

1 including but not limited to, regulations and prohibitions, free from
2 state preemption or challenge by the assertion of competing rights of
3 corporations.

4 § 3. This act shall take effect immediately.