



A.4272 (BRODSKY, ET AL.) S.1730 (SCHNEIDERMAN, THOMPSON)

Summary

This bill would create the Private Environmental Law Enforcement Act, providing New York citizens with the right to bring civil action against individuals who have violated certain provisions of the state's Environmental Conservation Law (ECL). Injunctive and declaratory relief would be made available to citizens who have endured damage or are faced with potential harm by infractions of a variety of ECL-regulated activities, including air pollution, inactive hazardous waste, protection of drinking water, solid waste facilities, mining site issues, and pesticide storage and application. The bill preserves the state's ability to bring action and make sure other enforcement powers are not weakened by this measure.

Explanation

Citizen suit provisions have been an important staple of federal environmental law for decades. Some of the most significant advances in environmental quality nationwide would not have been possible without the right of individuals to bring action that is built into federal statutes such as the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, and the Emergency Planning and Community Right to Know Act. Recognizing the need to keep this critical component of comprehensive environmental law enforcement intact, other states have enacted environmental citizen suit statutes that provide individuals with the legal right to become involved in protecting their communities. Since the beginning of state environmental oversight, New York has long lagged behind other states in this regard, and with more enforcement responsibility relegated to the State during this time of severe budget constraints, this concept is more crucial than ever.

Private enforcement measures assure that citizens have some recourse when authorities cannot—or will not—respond to ongoing violations of the state's environmental laws. Private enforcement measures also help to impede those who, by ignoring environmental laws, have a competitive advantage over those enterprises in compliance with environmental safeguards.

This bill also guards against the filing of frivolous lawsuits and prohibits citizen recourse if legal action has been or is initiated by either the state's Department of Environmental Conservation or the Attorney General.

Environmental Advocates of New York supports this bill.

Memo 15