

Environmental

Advocates

NY

# EANY SUPPORTS Enforcement Tools



Memo #32

[S.4886 \(Gianaris\)](#)

[A.8353 \(Simon\)](#)

## **Explanation:**

This bill expands the enforcement tools and remedies available for violations of the Environmental Conservation Law (ECL), to allow a civil remedy of injunctive relief, including a revocation or suspension of a permit or certificate or denial of a pending renewal application, for violations of the ECL where the penalty is not otherwise specifically provided.

While typically specific provisions of the ECL lay out the enforcement authority and penalties, many areas of the ECL do not and rely on the general civil penalty provision in section 71-4003, which currently only provides for the assessment of a civil penalty.

The nature of some ECL violations make injunctive relief a more appropriate enforcement tool than a monetary penalty. For example, ECL Article 34, relating to Coastal Erosion Hazard Areas, recognizes the need to regulate activities and development, including erection of erosion protective structures, within certain coastal erosion areas to minimize damage to property and prevent the exacerbation of erosion hazards. This article has no specific penalty provisions and relies on section 71-4003. If the violation of this section included the failure to erect a structure for erosion control, the only remedy the Department of Environmental Conservation (DEC) would have would be to assess a penalty. In this circumstance, it may be more appropriate to deny or suspend the violators permit until the appropriate erosion control structures are constructed. Conversely, a violator could erect a structure detrimental to the area and an appropriate remedy could be to require that violator to remove the structure, in lieu of or in addition to a monetary penalty.

This legislation would give DEC more flexibility in enforcing against violations of the ECL and have more appropriately tailored enforcement tools available.

## **Summary:**

This bill amends section 71-4003 of the Environmental Conservation Law (ECL) to expand the civil remedies available for ECL violations for which there is no specifically stated penalty in law to include injunctive relief.