

By Mr. Brownell of Quincy, petition of Robert H. Quinn (Attorney General) and Thomas F. Brownell relative to the imposition of civil forfeitures for violation of environmental laws and rules. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Three.

AN ACT PROVIDING FOR THE IMPOSITION OF CIVIL FORFEITURES FOR ENVIRONMENTAL VIOLATIONS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 214 of the General Laws is hereby amended by
2 inserting after section 3A the following new section: —

3 *Section 3B.* In any civil suit in equity brought to remedy
4 damage to the environment the court, notwithstanding the
5 granting or denial of injunctive relief, may assess a civil forfeiture
6 of not less than fifty nor more than five hundred dollars for each
7 day or part thereof during which such damage to the environ-
8 ment occurs.

9 As used in this section, “damage to the environment” shall
10 mean any destruction, damage or impairment, actual or probable,
11 to any of the natural resources in the commonwealth and shall
12 include, but shall not be limited to, air pollution, water
13 pollution, improper sewage disposal, pesticide pollution, ex-
14 cessive noise, improper operation of dumping grounds, or the
15 impairment or eutrophication of rivers, streams, flood plains,
16 lakes, ponds or other surface or subsurface water resources,
17 destruction of seashores, dunes, marine resources, wetlands, open
18 spaces, natural areas, parks or historic districts or sites. Damage
19 to the environment shall not include any insignificant destruc-
20 tion, damage or impairment to such natural resources.

21 In determining the amount of a civil forfeiture to be assessed
22 as prescribed in this section the court may consider, but shall not
23 be limited to, the extent of damage to the environment caused,

24 the nature and persistence of the damage to the environment, the
25 length of time over which the damage to the environment occurs,
26 and corrective action, if any, taken to abate or prevent the
27 damage to the environment complained of. Any civil forfeitures
28 so assessed shall be paid to the general fund of the common-
29 wealth except that the court may order that the whole or any
30 portion of any such civil forfeiture be paid to such department,
31 agency, commission, authority, or fund of the commonwealth or
32 of a political subdivision of the commonwealth for such
33 purposes, by such means and on such terms as the court deems
34 appropriate and in accordance with law to assist in abating or
35 preventing the damage to the environment complained of,
36 including, but not limited to, ordering that the whole or any
37 portion of any such civil forfeiture be paid directly or indirectly
38 to the benefit of the party against whom it is assessed to assist in
39 abating or preventing the damage to the environment complained
40 of.

41 To secure any such civil forfeiture assessed by the court the
42 commonwealth, without limitation on other remedies, shall have
43 a lien on any real or personal property used or operated so as to
44 cause the damage to the environment complained of.