

By Mr. Dwinell of Millbury, petition of Francis X. Bellotti (Attorney-General), Richard J. Dwinell, Thomas F. Brownell, John F. Cusack, Francis E. Rogers and Carol C. Amick that provision be made for the imposition of civil forfeitures for certain violations of the environmental laws. The Judiciary.

The Commonwealth of Massachusetts

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

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 adding
2 after section 7A the following new section:—

3 *Section 7B.* In any civil action brought to remedy damage to
4 the environment or to enforce any order, decision, or requirement
5 of the Executive Office of Environmental Affairs or any
6 subdivision therein, the court, notwithstanding the granting or
7 denial of injunctive relief, may assess a civil forfeiture of not more
8 than ten thousand dollars for each day or part thereof during
9 which such damage to the environment occurs.

10 As used in this section, "damage to the environment" shall
11 mean any destruction, damage or impairment, actual or
12 probable, to any of the natural resources in the commonwealth
13 and shall include, but shall not be limited to, air pollution, water
14 pollution, improper sewage disposal, pesticide pollution, ex-
15 cessive noise, improper operation of dumping grounds, or the
16 impairment or eutrophication of rivers, streams, flood plains,
17 lakes, ponds or other surface or subsurface water resources,
18 destruction of seashores, dunes, marine resources, wetlands, open
19 spaces, natural areas, parks or historic districts or sites, any
20 violation of any order, decision or requirement of the Executive
21 Office of Environmental Affairs or any subdivision therein.

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

24 limited to, the extent of damage to the environment caused, the
25 funds that would be required to mitigate or repair such damage,
26 the nature and persistence of the damage to the environment, the
27 length of time over which the damage to the environment occurs,
28 and corrective action, if any, taken to abate or prevent the
29 damage to the environment complained of. Any civil forfeitures
30 so assessed shall be paid to the general fund of the commonwealth
31 except that the court may order that the whole or any portion of
32 any such civil forfeiture be paid to such department, agency,
33 commission, authority, or fund of the commonwealth or of a
34 political subdivision of the commonwealth for such purposes, by
35 such means and on such terms as the court deems appropriate to
36 assist in abating or preventing the damage to the environment
37 complained of, and may order that the whole or any portion of
38 any such civil forfeiture be paid directly or indirectly to the
39 benefit of the party against whom it is assessed to assist in abating
40 or preventing the damage to the environment complained of.