



General Assembly

February Session, 2006

Raised Bill No. 5447

LCO No. 1712

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Referred to Committee on Environment

Introduced by:
(ENV)

AN ACT CONCERNING ENCROACHMENT ON OPEN SPACE LANDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2006*) (a) For purposes of this
2 section, "encroachment" means an activity that is not authorized by the
3 owner of open space land and causes harm to such land.
4 Encroachment includes, but is not limited to, the erection of structures,
5 building of roadways, driveways or trails, destruction of stone walls,
6 vegetation, boundary markers, placement of fill, installation of lawns
7 or utilities, use, storage or disposal of vehicles, debris or other
8 materials.

9 (b) The state, a political subdivision of the state, any instrumentality
10 or agency of the state or a political subdivision thereof, or any
11 nonprofit land conservation organization that is an owner of or holds a
12 conservation interest in open space land may maintain an action in the
13 superior court for the judicial district wherein the defendant is located,
14 resides or conducts business, or in the judicial district where the land is
15 located, against any person who encroaches or causes an
16 encroachment on such open space land.

17 (c) The court may award the person or entity bringing an action
18 under subsection (b) of this section the cost of restoring the land to a
19 condition from which the land can regain the ecological functions it
20 performed prior to the encroachment, including reasonable
21 management costs necessary to achieve such restoration. In
22 determining the amount of the award, the court shall consider the
23 wilfulness of the violation, the extent of damage done to natural
24 resources, any economic gain realized by the violator and any other
25 relevant factors.

26 (d) All costs, fees and expenses in connection with the action shall
27 be assessed as damages against the violator together with reasonable
28 attorney's fees which may be allowed, all of which shall be awarded to
29 the person or entity that brought such action.

30 (e) The Attorney General may maintain an action in the superior
31 court for the judicial district wherein the defendant is located, resides
32 or conducts business, or in the judicial district where the land is
33 located, to enforce the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2006	New section

Statement of Purpose:
To protect open space land from encroachment.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]