

***Judiciary Committee***

***HB 1960***

***Title:*** *An act relating to citizen enforcement of land use and shorelines laws.*

***Brief Description:*** *Providing for citizen enforcement of land use and shorelines laws.*

***Sponsors:*** *Representatives Edmonds, Cody, Kenney, Poulsen, Lantz, Hurst, Keiser, Miloscia, Darneille, Lovick and Romero.*

***Brief Summary of Bill***

- *Authorizes citizen enforcement of environmental, shorelines, and land use laws under specified circumstances.*

***Hearing Date:*** *2/22/01*

***Staff:*** *Edie Adams (786-7180).*

***Background:***

*There are a number of state laws that impose requirements on the state, counties, cities, and citizens with respect to land use decisions, including the Growth Management Act, the Shoreline Management Act, the State Environmental Policy Act and general planning, zoning, and platting and subdivision laws. The provisions of these laws generally require the adoption of plans and permitting requirements and conditions with respect to the development and use of land and the impacts that development and use of land have on the environment, sustainable economic development, and public health and welfare.*

*The Growth Management Act (GMA) requires certain local jurisdictions to designate urban growth areas and adopt comprehensive plans and development regulations. These must be developed considering a number of goals including: discouraging sprawling development; encouraging development in urban areas with adequate public facilities; protecting the environment and enhancing the state's high quality of life, including air and water quality; and encouraging the retention of open space and increasing access to natural resource lands and water.*

*The Shoreline Management Act (SMA) requires each county and city to adopt a shoreline master program for all shoreline areas within their jurisdictions. The program must be consistent with guidelines adopted by the Department of Ecology and must include elements relating to economic development, public access, recreation, circulation, and conservation.*

*The State Environmental Policy Act (SEPA) requires state agencies and local governments to prepare detailed statements, or environmental impact statements, for any of their proposed actions that may have a probable, significant adverse impact on the environment. Goals of SEPA include assuring citizens safe, healthful, productive, and aesthetically and culturally pleasing surroundings; and attainment of the widest range of beneficial uses of the environment without degradation, risk to health or safety, or undesirable and unintended consequences.*

*In addition, there are a number of chapters of the law dealing generally with planning, zoning, and platting and subdivision of land, which impose requirements on local governments with respect to land use decisions.*

*These laws along with the Land Use Petition Act and the Administrative Procedure Act provide processes for challenges to plans and land use decisions and judicial review of decisions made by the planning or permitting authority. Generally, a person has standing to challenge a decision if the decision prejudices that person, the person's interest is among those the jurisdiction was required to consider, and the prejudice is capable of being redressed.*

***Summary of Bill:***

*Any citizen may commence a civil action against any person who is alleged to have violated an environmental standard or requirement or an agency order relating to an environmental standard or requirement.*

*An "environmental standard or requirement" means:*

- conditions of permits issued under the SEPA;*
- prohibitions or requirements adopted under the GMA, the SMA, or local zoning laws relating to sensitive areas, natural resources, or human health; and*
- platting and zoning permit requirements, conditions, or prohibitions.*

*A citizen action may not be commenced if an agency with authority to enforce the standard or requirement has commenced and is diligently prosecuting an action. In addition, an action may not be commenced prior to 60 days after the plaintiff has given notice of the violation, unless the violation presents a substantial risk of immediate and irreparable endangerment to the environment. Notice of the violation must be by certified mail or personal service to the alleged violator, state attorney general, and agency with primary responsibility for enforcement of the standard or requirement. In addition, the notice must be specific regarding the alleged actions, conduct, or circumstances that will be the subject of the action.*

*The court has jurisdiction to enforce the standard or requirement, or order; grant*

*injunctive relief; assess civil penalties; and award costs of litigation. The court may assess a civil penalty of up to \$10,000 per violation per day. In determining the penalty, the court must consider the seriousness of the violations, duration of the violations, and economic benefits of the violations to the violator. The court must award a civil penalty greater than the economic benefit to the violator unless it would result in an injustice.*

*The act does not: restrict any right a person may have under the law to seek enforcement of any standard or requirement; alter or diminish any obligation under law or create or enlarge any defense in an action to enforce such a legal obligation; or impose additional liability on a state or local government for failure to enforce a violation covered by the act.*

***Appropriation:*** None.

***Fiscal Note:*** Not Requested.

***Effective Date:*** Ninety days after adjournment of session in which bill is passed.