

***Judiciary Committee***

***HB 1961***

***Title:*** *An act relating to citizen enforcement of environmental laws.*

***Brief Description:*** *Providing for citizen enforcement of environmental laws.*

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

***Brief Summary of Bill***

- *Authorizes citizen enforcement of various environmental, land use, and shorelines 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 and environmental concerns, including the Growth Management Act, the Shoreline Management Act, the State Environmental Policy Act, the Forest Practices Act, the Hazardous Waste Management Act, the Washington Pesticide Control Act, the Washington Clean Air Act, and chapters governing hydraulic projects, water pollution control, solid waste, underground storage tanks, water rights, and general planning, zoning and platting.*

*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. 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 or public health standard or requirement, or an agency order relating to an environmental or public health standard or requirement.*

*An "environmental or public health standard or requirement" means:*

- conditions of permits issued under the State Environmental Protection Act;*
- prohibitions or requirements adopted under the Growth Management Act, the Shoreline Management Act, or local zoning laws relating to sensitive areas, natural resources, or human health;*
- hydraulic project permit requirements or prohibitions;*
- Forest Practices Act permit requirements or prohibitions;*
- solid waste permit requirements or prohibitions;*
- Hazardous Waste Management Act permit requirements or prohibitions;*
- underground storage tanks permit requirements or prohibitions;*
- Washington Pesticide Control Act permit requirements or prohibitions;*
- Washington Clean Air Act permit requirements or prohibitions;*
- surface and ground water permits, change certificates, and water rights abandonment and relinquishment actions; 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 violations present a substantial risk of immediate and irreparable endangerment to human health or 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.***