

2022 -- H 7853

LC004975

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO WATERS AND NAVIGATION -- DAMAGES FROM MILLDAMS -- THE
JOHNSON'S POND PROTECTION ACT

Introduced By: Representatives Nardone, Roberts, Serpa, Noret, McNamara, and P
Morgan

Date Introduced: March 04, 2022

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 46-18-1 of the General Laws in Chapter 46-18 entitled "Damages
2 from Milldams" is hereby amended to read as follows:

3 **46-18-1. Right of owner to continue and improve dam and pond.**

4 (a) Whenever any person, either upon his or her own land or upon the land of another with
5 his or her consent, shall have set up any water mill or dam for the purpose of forming a pond to
6 supply water to any mill or mills upon the stream whereon the dam is located, the owner of the mill
7 or dam may continue and improve the pond and keep up the dam thereof on his or her own land for
8 his or her advantage without molestations, except as provided in subsection (b) of this section.

9 (b) The provisions of this section shall be governed by the provisions of §§ 2-1-18 through
10 2-1-28.

11 SECTION 2. Section 2-1-23 of the General Laws in Chapter 2-1 entitled "Agricultural
12 Functions of Department of Environmental Management" is hereby amended to read as follows:

13 **2-1-23. Violations.**

14 (a) In the event of a violation of § 2-1-21, the director of environmental management has
15 the power to order complete restoration of the freshwater wetland, buffer, floodplain, or other
16 jurisdictional area involved by the person or agent responsible for the violation. If the responsible
17 person or agent does not complete the restoration within a reasonable time following the order of
18 the director of the department of environmental management, the director has the authority to order

1 the work done by an agent of the director's choosing and the person or agent responsible for the
2 original violation is liable for the cost of the restoration. The violator is liable for a fine not
3 exceeding five thousand dollars (\$5,000) for each violation, except that if the violator knowingly
4 or recklessly alters a freshwater wetland, buffer, floodplain or other jurisdictional area without a
5 permit or approval from the director; knowingly or recklessly alters a freshwater wetland, buffer,
6 floodplain or other jurisdictional area in violation of the rules or regulations promulgated by the
7 director; or alters a freshwater wetland, buffer, floodplain or other jurisdictional area in violation
8 of a permit issued by the director, then the violator is liable for a fine not exceeding ~~ten thousand~~
9 ~~dollars (\$10,000) for each violation~~ six thousand dollars (\$6,000) for the first offense; twelve
10 thousand dollars (\$12,000) for the second offense and thirty-six thousand dollars (\$36,000) for all
11 subsequent offenses.

12 (b) In addition, the director of the department of environmental management may enter
13 upon the freshwater wetland, buffer, floodplain, or other jurisdictional area, to restore the water
14 levels and flow rates of the pond to match historical norms and take into consideration the effects
15 of climate change.

16 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO WATERS AND NAVIGATION -- DAMAGES FROM MILLDAMS -- THE
JOHNSON'S POND PROTECTION ACT

1 This act would make the Milldam Act subject to the provisions of the Freshwater Wetlands
2 Act and would also grant authority to the director of the department of environmental management
3 (DEM) to enter upon the freshwater wetland to restore the water levels of the pond to match historic
4 norms. Additionally, this act would also increase the fines for intentionally altering wetlands,
5 without the approval of the director of DEM, to six thousand dollars (\$6,000) for the first offense;
6 twelve thousand dollars (\$12,000) for the second offense and thirty-six thousand dollars (\$36,000)
7 for all subsequent offenses.

8 This act would take effect upon passage.

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