

2014 -- S 2619

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO PROPERTY - TRESPASS AND ACTIONS FOR POSSESSION

Introduced By: Senator V. Susan Sosnowski

Date Introduced: March 04, 2014

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 34-20 of the General Laws entitled "Trespass and Actions for  
2 Possession" is hereby amended by adding thereto the following section:

3 **34-20-1.1. Damages for encroachment on state, municipal or nonprofit land**  
4 **conservation organization open space land - Attorney General enforcement - Civil Action. –**

5 (a) Definitions: As used in this section, words and terms shall have given to them the  
6 meanings set forth below, unless the context indicates another or different meaning or intent.

7 (1) "Open space land" means and includes, but is not limited to, any park, forest, wildlife  
8 management area, refuge, preserve, sanctuary, green or wildlife area owned by the state, a  
9 political subdivision of the state or a nonprofit land conservation organization.

10 (2) "Encroach" means to conduct an activity that causes damage or alteration to the land  
11 or vegetation or other features thereon, including, but not limited to, erecting buildings or other  
12 structures, constructing roads, driveways or trails, destroying or moving stone walls, cutting trees  
13 or other vegetation, removing boundary markers, installing lawns or utilities, or using, storing, or  
14 depositing vehicles, materials or debris.

15 (b) No person may encroach or cause another person to encroach on open space land or  
16 on any land for which the state, a political subdivision of the state or a nonprofit land  
17 conservation organization holds a conservation easement interest, without permission of the  
18 owner of such open space land or holder of such conservation easement or without other legal  
19 authorization.

1           (c) Any owner of open space land or holder of a conservation easement subject to the  
2 provisions of subsection (b) of this section or the attorney general may bring an action in the  
3 superior court for the county where the land is located against any person who violates the  
4 provisions of said subsection with respect to such owner's land or land subject to such  
5 conservation easement. The court shall order any person who violates the provisions of  
6 subsection (b) of this section to restore the land to its condition as it existed prior to such violation  
7 or shall award the landowner the costs of such restoration, including reasonable management  
8 costs necessary to achieve such restoration. In addition, the court may award reasonable  
9 attorney's fees and costs and such injunctive or equitable relief as the court deems appropriate.

10           (d) In addition to any damages and relief ordered pursuant to subsection (c) of this  
11 section, the court may award damages of up to five (5) times the cost of restoration or statutory  
12 damages of up to five thousand dollars (\$5,000). In determining the amount of the award, the  
13 court shall consider the willfulness of the violation, the extent of damage done to natural  
14 resources, if any, the appraised value of any trees or shrubs cut, damaged, or carried away as  
15 determined in accordance with the latest revision of The Guide for Plant Appraisal, as published  
16 by the International Society of Arboriculture, Urbana, Illinois, or a succeeding publisher, any  
17 economic gain realized by the violator and any other relevant factors.

18           SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would allow the owner of open space land or holder of a conservation easement  
2           or the attorney general to bring an action in superior court to prevent further encroachment of the  
3           land and to recover damages resulting from this encroachment.

4           This act would take effect upon passage.

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