

1985 Assembly Bill 421

Date of enactment: April 21, 1986  
Date of publication: April 30, 1986

## 1985 Wisconsin Act 291

AN ACT to create 144.995 and 801.50 (5p) of the statutes, relating to jurisdiction and venue in actions for damages caused by environmental pollution.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 144.995 of the statutes is created to read:

**144.995 Uniform transboundary pollution reciprocal access act.** (1) DEFINITIONS. In this section:

(a) "Person" means an individual person, corporation, business trust, estate, trust, partnership, association, joint venture, government in its private or public capacity, governmental subdivision or agency, or any other legal entity.

(b) "Reciprocating jurisdiction" means a state of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States of America, or a province or territory of Canada, which has enacted this section or provides substantially equivalent access to its courts and administrative agencies.

(2) FORUM. An action or other proceeding for injury or threatened injury to property or person in a reciprocating jurisdiction caused by environmental pollution originating, or that may originate, in this jurisdiction may be brought in this jurisdiction.

(3) RIGHT TO RELIEF. A person who suffers, or is threatened with, injury to his or her person or property in a reciprocating jurisdiction caused by environmental pollution originating, or that may originate, in this jurisdiction has the same rights to relief with respect to the injury or threatened injury, and may enforce those rights in this jurisdiction as if the injury or threatened injury occurred in this jurisdiction.

(4) APPLICABLE LAW. The law to be applied in an action or other proceeding brought pursuant to this section, including what constitutes "environmental pollution", is the law of this jurisdiction excluding choice of law rules. Nothing in this section restricts the applicability of federal law in actions in which fed-

eral law is preemptive. Nothing in this section determines whether state law or federal law applies in any particular legal action.

(5) **EQUALITY OF RIGHTS.** This section creates no substantive rights of action beyond those available under other law in this state and does not accord a person injured or threatened with injury in another jurisdiction any rights superior to those that the person would have if injured or threatened with injury in this jurisdiction.

(6) **RIGHT ADDITIONAL TO OTHER RIGHTS.** The right provided in this section is in addition to and not in derogation of any other rights, except that no action or proceeding for injury or threatened injury to property or person in another jurisdiction caused by environmental pollution originating, or that may originate, in this jurisdiction may be brought in this jurisdiction unless the right to relief is provided under this section.

(7) **WAIVER OF SOVEREIGN IMMUNITY.** The defense of sovereignty immunity is applicable in any action or other proceeding brought pursuant to this section only to the extent that it would apply to a person

injured or threatened with injury in this jurisdiction may be brought in this jurisdiction.

(8) **EXCLUSION.** This section does not apply to any action or other proceeding for injury or threatened injury to property or person caused by a publicly owned treatment work operated under a permit for the discharge of pollutants issued by the department under ch. 147.

(9) **UNIFORMITY OF APPLICATION AND CONSTRUCTION.** This section shall be applied and construed to carry out its general purpose to make uniform the law with respect to the subject of this section among jurisdictions enacting it.

(10) **TITLE.** This section may be cited as the "uniform transboundary pollution reciprocal access act".

**SECTION 2.** 801.50 (5p) of the statutes is created to read:

801.50 (5p) Venue of an environmental pollution action brought by a person who is not a resident of this state against a commission created under s. 66.882 shall be in the county which contains the 1st class city that is located wholly or partially within the applicable district created under s. 66.882.