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Date: March 1, 2024
To: Members of the House Committee on Environment and Transportation
From: Grayson Middleton, Government Affairs Manager
Re: HB 1101 – Clean Water Justice Act of 2024 – **OPPOSE**

Delmarva Chicken Association (DCA) the 1,600-member trade association representing the meat-chicken growers, processing companies, and allied business members on the Eastern Shore of Maryland, the Eastern Shore of Virginia, and Delaware opposes HB 1101 and urges an unfavorable committee report.

HB 1101 will expand legal standing for individuals seeking to sue companies, farmers, individuals, and state agencies for environmental harm or the threat of environmental harm.

At face value HB 1101 seems like a good way to expand access to the courts for individuals seeking redress for environmental injuries. To be clear, farmers (who are often called the first environmentalists) want a clean environment as well. Farmers make their living and raise their families on the land and water, and so the health of the environment is perhaps even more in their interest than it is for the public. As an association, we always encourage full compliance with every applicable state and local regulation, as well as implementing additional good neighbor practices. We do not support or defend bad actors.

However, proponents of this legislation have indicated that they do not believe the current regulatory and legal framework is enough to protect the environment and Maryland citizens. This is categorically false.

Farmers are beholden to innumerable laws, regulations, and permits to operate their small business. This is especially true for chicken growers. To build a chicken farm, the farmer must first follow the local planning and zoning guidelines which have been established by the county through a very public comprehensive planning process.

The farmer will then be required to obtain a general discharge permit for concentrated animal feeding operations (CAFO). This permit and the Comprehensive Nutrient Management Plan that is required is written in a way that there is no discharge from a chicken farm. Not only has the general permit had a public comment period, but there is a public notice process that could allow for a public meeting for each individual grower that applies for the CAFO permit. These permits already take months to obtain. Usually those who participate in the public process provide very little substantive input to the permit that is being issued, but it does create undue stress for the farmer, a small business owner.

A grower who is building or “adding on” to the farm, must also obtain a sediment and stormwater permit – another process that allows for public comments. These permits are an additional measure to ensure that no nutrients leave the farm.



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Proponents have also argued that this legislation would only affect those who pollute and are out of compliance. This is not true.

The chicken community has already been threatened by a lawsuit in Maryland just 10 years ago with the Waterkeeper Alliance, Inc. vs. Alan Hudson, an initiative led by the Assateague Coastal Trust. This mistaken identity of a pile of litter resulted in three years of litigation, millions of dollars in legal fees and mental stress on a young farm family.

In 2019, a number of environmental groups, including Chesapeake Legal Alliance, Center for Progressive Reform, Environmental Action Center, Environmental Integrity Project and more received \$3.5 million over 42 months from the Town Creek Foundation for the purposes “to launch a 5-year legal enforcement campaign to hold government and industry accountable for compliance with the Clean Water Act and the Chesapeake Bay TMDL.”¹

If HB 1101 were to pass, then the chicken community would anticipate even more frivolous lawsuits, perhaps even from those that have very little standing or physical connection to the area where the chicken farms are located. These lawsuits could jeopardize the livelihood of a grower and his/her family. Finally, there would likely be additional lawsuits directed toward state and counties that would slow down the process of a small farmer starting a business.

Even if a judge were to dismiss a frivolous case, the farmer would still be required to hire an attorney and pay exorbitant legal fees. Chicken farmers do not have foundations granting them funds specifically for litigation. Chicken farmers and the agriculture community rely on science-based, data driven laws and regulations to guide them.

For these reasons we urge an **unfavorable** vote on HB 1101.

Should you have any additional questions, please feel free to contact me at middleton@dcahicken.com or 410-490-3329.

Sincerely,

Grayson Middleton

Government Affairs Manager

¹ <https://towncreekfdn.org/recent-grants/2019-grants/>