



Wild Blueberry Commission OF MAINE

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Eric Venturini, Executive Director

Testimony in opposition to LD 489

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to a Healthy Environment

Senator Brenner, Representative Tucker, and esteemed members of the Committee on Environment and Natural Resources, my name is Eric Venturini and I am the Executive Director of the Wild Blueberry Commission of Maine, the voice of Maine's wild blueberry farms and businesses.

Our industry produces approximately 10% of all blueberries grown in the US, and near 100% of *wild* blueberries grown in the US. The Commission represents every farm that grows, and every business that processes wild blueberries in Maine.

Wild blueberries are one of our State icons, a veritable gem that is understood and appreciated for its cultural, economic, and environmental significance to the state. Our farmers and businesses work closely with University of Maine Extension to sustainably grow and harvest this berry. As an industry we have shifted from burning fields as a management method—a traditional method going back thousands of years—to mowing which drastically reduces our carbon emissions. This crop is quite possibly the most sustainable fruit that you can purchase in the supermarket, as demonstrated by its continued management and harvest for literally thousands of years. The farmers that make up the wild blueberry industry are committed to contributing to a clean and healthy environment, using water resources sustainably, and protecting the pollinators and other wildlife that help make our crop what it is.

It is because of this commitment to the environment and sustainability that we so carefully considered our position on this bill prior to providing you with this testimony in opposition.

We see three major problems with this bill.

1. A complete lack of legal clarity around terms such as, "clean," "pure," and "healthful."
2. Under these broad definitions, the potential exists for legal challenges to every state environmental law.
3. If passed, this would direct the courts, instead of the legislature and state agencies, to parse out the details of our environmental laws.

Consider the suite of legislation currently being considered by the legislature on the issue of perfluoroalkyl and polyfluoroalkyl substances (PFAS; e.g., LDs 129, 164, and 264). Clearly, we do not want PFAS contamination in our water or in our soils. Concerns were raised, legislation was developed, and several different committees including this one, are now, or have already carefully considered the issues, and heard experts, stakeholders, and state agencies speak on the pros and cons of the legislation.



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The Committee on Health and Human Services, for example, is now carefully weighing this input to determine the most appropriate and informed path forward on PFAS. The decisions made regarding PFAS will almost certainly be nuanced and specific to the issue at hand and could not simply be summed up by a right to “clean water.” The Health and Human Services Committee may set a PFAS limit in water. Where water tests above that level there would be requirements to filter out or otherwise bring the water source into compliance. Once a limit is set for PFAS, this bill because of its broad language, would leave the doors wide open for litigation against the state for setting the level at anything above zero. The courts would then decide, what is “clean water” and a “healthy environment” as it relates to PFAS. Is the state responsible for bringing PFAS levels down to zero anywhere it occurs? Is that realistic? Is this a decision we want to leave with the courts?

If this bill passes, the state could see litigation from individuals concerned that:

- The farmer next door spreads manure on her fields in the spring and thus violates the citizen’s right to “clean air.”
- Their neighbor down the hill in a coastal town has allowed their trees to grow too tall, cutting off their water view, and infringed upon the citizen’s right to the “scenic... qualities of the environment.”
- Upon reading the water testing results sent by their local water authority, a citizen litigates against the state because the levels of e.g., arsenic, calcium, copper, iron, and radon, while well below EPA limits and within any existing state limits, infringe upon the citizens right to “pure water.”

This bill has the potential to impact any user of natural resources in the state, indirectly through litigation brought against the state, on grounds of these overly broad definitions. Environmental laws need to be devised and revised for *specific* pollutants and contaminants and appropriate levels, restrictions, and rules set for each contaminant. The overly broad language in this bill would impede the science and stakeholder process used to arrive at solutions. Instead of deciding these issues through careful and considered legislation and rulemaking, they would be decided in court.

On behalf of wild blueberry farms and businesses in the state of Maine, I oppose this bill. Thank you, Senator Brenner, Representative Tucker, and esteemed members of the Committee on Environment and Natural Resources.