



**New York Farm Bureau**  
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# **MEMORANDUM OF OPPOSITION**

**A. 3510 (Assemblymember O'Donnell)/S. 2798 (Senator Kavanagh)**

**AN ACT TO AMEND THE ENVIRONMENTAL CONSERVATION LAW, IN RELATION  
TO ENACTING THE ENVIRONMENTAL ACCESS TO JUSTICE ACT**

**Date: 5/3/2022**

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New York Farm Bureau, the state's largest general farm advocacy organization, respectfully requests your opposition to the above referenced legislation. If enacted, this bill would not only bypass our judicial system's authority to interpret law but would also open the floodgates of litigation against businesses, and thus farms, alike.

This bill would allow any individual to have standing to bring a cause of action against a business under the New York State Environmental Quality Review Act ("SEQRA"), even if the individual has not suffered a particular injury that differs from the public at large. Simply put, this bill removes the "special harm" standing requirement. Currently in case law, for an individual to have standing for a SEQRA claim, the plaintiff must allege and prove that their injury is real and different from the injury that most members of the public face. The "special harm" standing requirement protects against frivolous actions where no specific harm is alleged.

The intent of standing is well established in the court system. In fact, it is needed to bring almost any action in any court. Standing is a requirement, established and explained over the course of case law history, to show the court that an individual has a sufficient connection to the action and the individual will suffer harm. By passing this legislation, the legislature would be usurping the New York Court of Appeal's judicial authority to interpret law.

Equally important is the interest that both farmers and the general public have in protecting the environment. However, this legislation raises major concerns as it would allow farmers to be sued unnecessarily under a SEQRA claim, even when engaging in sound agricultural practices. SEQRA is often triggered for farmers in situations such as the construction, expansion, or repair of a barn structure; any alteration to farmland; and the withdrawal of large amounts of water.

This legislation would only continue to impact an industry sector that already operates on extremely tight margins and often lacks the legal resources and means necessary to challenge one suit, let alone several suits. For these reasons, New York Farm Bureau respectfully requests your opposition to this legislation.