

The Honorable Kumar Barve
Chair, Environment and Transportation Committee
House of Delegates
6 Bladen Street, Room 251
Annapolis, MD 21401

RE: HB614 – State Government - Office of the Environmental and Natural Resources Ombudsman - Establishment (Environmental Accountability and Transparency Act)
Hearing February 19, 2020

Dear Chairman Barve and Committee Members:

My name is Brian Porto. I am a resident of, and property owner and business owner in, Maryland. My Spouse Catherine and I are raising our three children in the State. I am writing to express my opposition to House Bill 614.

The Bill ignores thoughtful consideration of economic, developmental, recreational, historic, architectural and other values, even ecological values, as expressed in 1-302(f) of the Maryland Code. This proposed Amendment takes an extremely myopic view and would set dangerous precedent and it raises due process concerns. The proposed Bill also appears in conflict with Article 43 of the Maryland Constitution.

Industrial activity, commercial activity, extractive activity, agriculture activity, fishing and harvesting of seafood, and recreational activity are integral parts of not only our economy but they are pursuits that the State should be encouraging, whether they are done by individuals, families, or through corporations. I mention recreation because sediment issues can arise on any well used recreational field or mountain biking track on private property. Yet this bill looks to criminalize individuals and corporations in the eyes of the public, even if they never receive a citation from a regulating or enforcement body. The Bill does this through publishing a database of complaints on-line, not violations, not penalties and/or settlements of violations, but complaints. This Bill creates a bludgeon not only for those who would make complaints because they don't want something in their backyard, but also for environmentalists and environmental groups, some of whom believe it is acceptable to break the laws of our State in the name of the environment. Repeated unsubstantiated complaints could taint the permit review process for permit holders around the State. Activities that presently do not have a permitting process can also be subject to inclusion on the website without even a citation as well. Further, persons or organizations with otherwise no legal standing could go around making spurious complaints that would be published on-line even though there has been no investigation by any regulatory or enforcement authority to validate the complaint.

I believe violent criminals are not even treated this way until they are actually charged with a crime and then only limited information of their charges can be seen on-line, but not the complaint itself, on <http://casesearch.courts.state.md.us> . There may be some other database where criminal complaints and police reports can be viewed online by the public, but I am not aware of any. It seems it also goes against the notion of innocent until proven guilty that is a bedrock principle of our legal system in not only our State but our Country.

One also has to question the expense of the position that will be created, the support staff, and other expenses that would be incurred on a going forward basis as a result of the proposed legislation, rather than providing that funding to MDE and DNR for inspection, enforcement, and education for issues that fall under their respective jurisdiction.

It seems that this legislation does not attempt to seek a “determination of an optimum balance between economic development and environmental quality” which “requires the most thoughtful consideration of ecological, economic, developmental, recreational, historic, architectural, aesthetic, and other values.” (1-302(f) of the Maryland Code)

The proposed legislation also appears in conflict with Article 43 of the Maryland Constitution. “That the Legislature ought to encourage the diffusion of knowledge and virtue, the extension of a judicious system of general education, the promotion of literature, the arts, sciences, agriculture, commerce and manufactures, and the general melioration of the condition of the People. The Legislature may provide that land actively devoted to farm or agricultural use shall be assessed on the basis of such use and shall not be assessed as if sub-divided. (1960, ch. 65, ratified Nov. 8, 1960.) “

We all want a healthful environment for ourselves and our children and for future generations. However, we don't all agree with the ways in which we attempt to achieve a healthful environment or even what that means. Especially given that virtually everything that humans do has some sort of negative externality to the environment. Unfortunately, some would attempt to “save the environment” at any cost. Even if it means trampling on individual and property rights, or even at the detriment of the economy of our State.

Regardless, determining an optimal balance between economic development and environmental quality is important, so is an understanding of agriculture, commerce and manufactures. This legislation does not appear to acknowledge either. It should be up to regulatory bodies and the courts to make decisions on whether any environmental rules, regulations, or laws have been broken, not an individual or organization. Further, this Committee should take into consideration the damage that can be inflicted by posting inaccurate or inflammatory information online.

Creating laws and regulations that are so myopic as to create a searchable database for complaints that have not been substantiated by any regulator or enforcement body and to create more bureaucracy, at tax payer expense, rather than providing additional resources for MDE and DNR to not only regulate and enforce but to educate seems counter to both 1-302(f) of the Code of Maryland and Article 43 of the Maryland Constitution.

For the reasons stated, I oppose House Bill 614.

If you have any questions, I can be reached at 301-343-3419. Thank you for your consideration.

Sincerely,
Brian Porto
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