

Vermont House of Representatives
House Committee on Agriculture
115 State St
Montpelier VT
05633
April 30, 2025
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Dear Representatives,

We are writing as the Environmental Justice Law Society (EJLS) at Vermont Law and Graduate School (VLGS) to voice our opposition to S.45 as it currently stands. The significant implications of S.45 for Vermont's communities warrant deep and broad community engagement on the draft language. The EJLS recommends pausing the House's consideration of S.45 until the next legislative session, when there is more time to appropriately engage Vermont's communities and farmers in the discussion.

As it stands, EJLS cannot support S.45. This bill is an attempt by industrial agricultural interests to overhaul our food system by allowing factory farms to poison Vermonters and evade civil litigation. Nuisance suits are a critical tool available to communities to protect their safety, health, and well-being where, as here, regulators have [failed to adequately regulate industry](#). Allowing farm activities to be exempt from nuisance suits so long as they (1) comply with state law, and (2) follow industry standards, does little to protect communities from the harmful effects of industrial agricultural operations like concentrated animal feeding operations (CAFOs).

First, compliance with state law does not guarantee adequate enforcement or regulation under state law. Last year, [the EPA determined](#) that *none* of Vermont's CAFOs were abiding by the Clean Water Act's permitting and discharge requirements—contributing to the degradation of our state's water quality, as well as the health and safety of Vermont citizens.

Second, industry standard practices should not be presumed to be safe. According to the EPA, agricultural operations are [the leading cause of water pollution](#) in the United States. Vermont has always been a leader – refusing to allow what is *normal* to dictate what is *right*, and leading the nation by example in adopting policies that protect the state's environment, health, and welfare. S.45 presents an opportunity for the legislature to demonstrate national leadership, stand up for what is right, and protect Vermonters from the unchecked pollution of industrial farming.

S.45 unjustly protects industrial farms at the expense of the health and safety of Vermont communities. However, with the right edits and input from Vermont's communities, the 'Right to Farm' bill could serve Vermonter's economic interests while retaining their ability to resort to the judicial system for remedies. Some of the edits already made to the bill aim to do just that. For example, EJLS and our allies greatly appreciate the current language on "substantial adverse effects on public health and safety." However, this language still poses many questions. For example: how will the committee determine what a "substantial" adverse effect is? What health problems does this language include? Moreover, does the term "public" denote harm to a community, or does this include harm to only one person? Without clarity from the legislature, courts will create definitions, contributing to more chaos and uncertainty for farmers and Vermonters at large. Postponing the legislature's consideration of S.45 would allow additional time for Vermonters to submit similar suggestions.

Further, much of the language in S.45 is deeply nuanced and requires detailed consideration of community concerns. For example, the mediation requirement is a good process, but ultimately removes a level of protection for poisoned communities and adds a level of protection for CAFOs and industrial operations with more money to spend on navigating the judicial system. More time would allow for the democratic participation and community input required to consider these trade-offs.

Finally, while Vermont's farms are facing [major challenges](#), S.45 does not address them. S.45 was drafted *by* and *for* industrial agricultural interests. S.45 is likely an ALEC bill. [ALEC](#) is a group of private sector representatives who draft and share model legislation for distribution among state governments. They sat on the advisory board as unofficial co-authors of Project 2025. Interestingly, S.45 is nearly *identical* to other pieces of legislation created by ALEC that have passed in multiple different states— areas that are now dominated by factory farms and rife with cancer. Some sections of S.45 are copied and pasted from ALEC's [model 'Right to Farm' bill](#). S.45 as it stands is rife with potential nefarious intent.

In considering S.45, Vermont has the opportunity to protect small farmers over corporate agribusiness with common-sense provisions. This consideration, though, will require deep community engagement on nuanced issues impacting nearly every Vermont community. In order to ensure appropriate time for this engagement, EJLS humbly recommends pausing the House's consideration of S.45 until the next legislative session.

EJLS also supports the public comments submitted by: Farm Aid, The Socially Responsible Agriculture Project, The Champlain Waterkeepers Alliance, Vermont Conservation Voters, Vermont Public Interest Research Group, Peace & Justice Center Vermont, Standing Trees, Vermont Interfaith Power & Light, and 350 Vermont.

Respectfully submitted,

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