



Protect Interstate Commerce Act

ISSUE

Some states, including California, have enacted laws and passed regulations restricting agricultural production practices beyond what is required by federal law. California's law in particular requires that for any shell eggs sold in the state, including those produced out-of-state, laying hens be afforded cages of a certain minimum size. By conditioning the sale of agricultural products in a state to production practices, even when they are conducted outside of the states, such laws have the effect of allowing individual states to restrict interstate commerce. The Protect Interstate Commerce Act (PICA) seeks to prevent any single state from having regulatory power over the production practices in other states.

BACKGROUND

The 2008 California ballot initiative, known as Proposition 2, imposed standards for confining farm animals raised within the state. Prop 2 provided that animals could only be confined in ways that allowed animals to lie down, stand up, fully extend their limbs and turn around freely. The bill targeted laying hens, veal calves and gestation crates used for farrowing hogs, with an effective date of January 1, 2015. In 2010, the California legislature adopted AB 1437, prohibiting the in-state sale of shelled eggs from producers in other states whose production practices did not meet the same criteria.

The HSUS backed Prop 2 and AB 1437 to protect consumers in one of the largest egg markets in the nation, but the legislative record lacked any showing that out-of-state egg production methods raised legitimate public health or safety concerns. The more likely intent was to protect in-state producers who would be unable to effectively compete with out-of-state producers not subject to Prop 2's restrictions.

A Missouri-led coalition of attorneys general and governors from six egg-producing states challenged the law (AB 1437) and related regulations as an unlawful effort to regulate conduct beyond its own borders in violation of the Constitution, including the Commerce Clause. The Ninth Circuit Court of Appeals ultimately upheld the lower court's dismissal of the case, stating that the state coalition failed to demonstrate sufficient injury (standing) to challenge the California law on behalf of its citizens. American Farm Bureau Federation submitted an amicus brief in support of the six states challenging AB 1437. More recently, a coalition of states filed a new lawsuit directly with the Supreme Court, raising similar legal arguments, but providing proof of injury to its citizens.

LEGISLATION

Congressman Steve King (R-Iowa) will be introducing the Protect Interstate Commerce Act (PICA). The bill is cosponsored by Reps. Robert Pittenger (R-NC) and Collin Peterson (D-Minn.). The bill prohibits a state or local government from imposing a standard or condition on the production or manufacturing of agricultural products sold or offered for sale in interstate commerce if:

- 1) the production or manufacturing occurs in another state; and
- 2) the standard or condition adds to standards or conditions applicable under federal law and the laws of the state or locality in which the production or manufacturing occurs.

POSITION

Farm Bureau supports the PICA bill to prohibit states from enacting laws regulating lawful conduct outside of their borders and affecting consumer choice.

These types of regulations disrupt the flow of interstate commerce, allowing a single state to dictate production practices in other states. Farm Bureau also opposes a state-by-state patchwork of regulations when those mandates do not affect the health and safety of agricultural products. Farmers and ranchers within states imposing additional regulations can be at a disadvantage when competing with products from out-of-state. Additionally, such state laws effectively diminish free choice for consumers by requiring they support a specific production practice over another. Such an approach will also most likely have the effect of increasing the retail price for agricultural commodities subject to unnecessary production practice restrictions.

FARM BUREAU POLICY SUPPORTS:

the interstate commerce clause of the U.S. Constitution for all food commodity products which comply with public health or food safety regulation. There should be no restrictions on state-to-state movement of food products that do not affect the safe and healthy use of those products.