

# SCOTUS Should Protect States' Rights and Uphold Prop 12 in California

*Prop 12 Created Even-Handed Standards Restricting In-State Sales of Breeding Pigs Kept in Extreme Confinement on Factory Farms*

WASHINGTON D.C., UNITED STATES, March 29, 2022 /EINPresswire.com/ -- Contact: Wayne Pacelle at 202-420-0446 | [wayne@animalwellnessaction.org](mailto:wayne@animalwellnessaction.org)



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*Wayne Pacelle, president,  
Animal Wellness Action*

Today, SCOTUS granted cert in a petition advanced by agribusiness giants

Today, the Supreme Court of the United States (SCOTUS) granted a petition for certiorari brought by the National Pork Producers Council (NPPC) and the American Farm Bureau Federation (AFBF) in their continuing attempts to nullify a voter-approved ballot measure in California that restricts the sale of pork that comes from factory farms

that confine breeding sows in cages barely larger than their bodies.

In July, the U.S. Court of Appeals for the Ninth Circuit ruled 3-0 for the state of California and against NPPC and AFBF finding that “for dormant Commerce Clause purposes, laws that increase compliance costs, without more, do not constitute a significant burden on interstate commerce.” That ruling was one of 10 legal setbacks for agribusiness groups that filed suits in federal court to weaken some provisions of Prop 12, which voters approved in November 2018 and that built on ballot measure on the same topic a decade earlier. Prop 12 increased space allotments for in-state producers and restricted in-state sales of pork, eggs, and veal.

California did not exhibit protectionism for its agriculture industry. Producers in California and in other states would all have to adhere to the same minimum space allotment standards if they want to sell pork, eggs, or veal in the California market. Producers in Iowa and Indiana can raise animals in their states consistent with their state statutes, but if they want to sell those products in California, they must adhere to California’s food safety and animal welfare standards.

Wayne Pacelle, president of the [Center for a Humane Economy](#) and [Animal Wellness Action](#), issued the following statement:

"Federal courts have repeatedly affirmed that California's anti-confinement law is a proper exercise of state authority. Since there are no federal laws to protect animals on the farm, a Supreme Court ruling adverse to California would leave farm animals with no protections at all – not at the local, state, or federal level. The fate of farm animals would rest entirely in the hands of agribusiness companies that have pioneered and practiced extreme confinement of farm animals and made those forms of exploitation routine.

"If the federal government says states do not have the authority to stop the sale of animal products that come from inhumanely treated animals or that threaten food safety, you may see dozens of state laws nullified that restrict the sale of shark fins, ivory, kangaroo parts; the sale of foie gras; and even the sale of fur. An adverse legal ruling would also undercut the egg industry whose producers have invested billions to comply with Prop 12 standards.

"Let's remember that the National Pork Producers Council and the American Farm Bureau want no state or federal animal welfare standards at all."

On December 31, 2021, the Center for a Humane Economy (Center) and its sister organizations called on all California-based food retailers, especially the biggest names in the American grocery, fast food, and food service industries, to abide by the housing standards prescribed by Prop 12. All provisions of Prop 12 came into effect January 1st, though some elements of the ballot measure were triggered earlier by the terms of the voter-approved measure. More than 60 of the major food retailers pledged years ago to ban gestation crates in their supply chains.

In December, the Center, Animal Wellness Action, Animal Wellness Foundation, and Americans for Family Farmers sued the California Department of Food and Agriculture, alleging that proposed regulations were incomplete because they did not cover the range of animal welfare and public health and safety concerns that motivated voters to demand more responsible living standards for animals. The lawsuit successfully triggered some improvements to the regulations, but a state court has stayed some elements of Proposition 12 until the CDFA completes its implementing regulations. That Court's ruling did not, however, relate in any way to the authority of the state to restrict the sale of products that come from farm animals raised in other states in inhumane and unsafe conditions.

NPPC and other food producers have warned of higher bacon prices, even as they worked with food processors to jack up prices for consumers. The Biden Administration has called out price-gouging by the highly consolidated meat industry, including meat packers. It's "the greed of meat conglomerates" according to White House press secretary Jen Psaki. "You could call it jacking up prices during a pandemic."

In March 2022, Animal Wellness Action and the Center for a Humane Economy worked with U.S. Reps. Veronica Escobar, D-Texas, and Nancy Mace, R-S.C., to introduce the Pigs in Gestation Stalls (PIGS) Act in early March. The measure seeks ban the extreme confinement of mother pigs in

gestation crates and it contains the same space allotments for pigs codified for California in Prop 12.

Suffering from physical and psychological torment, a breeding pig may spend up to three years intensively confined in a crate barely larger than the animals. The sow may weigh 400 pounds, and the two-foot by seven-foot crate immobilizes her, inhibiting her from even turning around or taking more than half step. Pigs raised for meat are not kept in these needlessly restrictive crates, and neither should pregnant pigs.

Animal Wellness Action (Action) is a Washington, D.C.-based 501(c)(4) organization with a mission of helping animals by promoting legal standards forbidding cruelty. We champion causes that alleviate the suffering of companion animals, farm animals, and wildlife. We advocate for policies to stop dogfighting and cockfighting and other forms of malicious cruelty and to confront factory farming and other systemic forms of animal exploitation. To prevent cruelty, we promote enacting good public policies and we work to enforce those policies. To enact good laws, we must elect good lawmakers, and that's why we remind voters which candidates care about our issues and which ones don't. We believe helping animals helps us all.

The Animal Wellness Foundation (Foundation) is a Los Angeles-based private charitable organization with a mission of helping animals by making veterinary care available to everyone with a pet, regardless of economic ability. We organize rescue efforts and medical services for dogs and cats in need and help homeless pets find a loving caregiver. We are advocates for getting veterinarians to the front lines of the animal welfare movement; promoting responsible pet ownership; and vaccinating animals against infectious diseases such as distemper. We also support policies that prevent animal cruelty and that alleviate suffering. We believe helping animals helps us all.

The Center for a Humane Economy ("the Center") is a non-profit organization that focuses on influencing the conduct of corporations to forge a humane economic order. The first organization of its kind in the animal protection movement, the Center encourages businesses to honor their social responsibilities in a culture where consumers, investors, and other key stakeholders abhor cruelty and the degradation of the environment and embrace innovation as a means of eliminating both.

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