

Harvard law program supports California Prop 12

By CAROL RYAN DUMAS
Capital Press

Harvard Law School's Animal Law & Policy Clinic has joined the battle over California's Proposition 12 in the U.S. Supreme Court.

The clinic's attorneys filed an amicus brief in support of Prop 12 Monday on behalf of a coalition of animal protection organizations and law professors.

The Supreme Court is scheduled to hear arguments on Oct. 11.

Approved by California voters in 2018, Prop 12 establishes minimum space requirements for breeding pigs, calves raised for veal and egg-laying

hens within the state. It also bans the sale of pork, veal and eggs from animals raised elsewhere if their living conditions don't meet California's standards.

National Pork Producers Council and American Farm Bureau Federation sued the California Department of Food and Agriculture in December 2019 on the grounds that Prop 12 violates the U.S. Constitution's commerce clause in banning the sale of out-of-state pork from animals confined in a manner inconsistent with California standards.

The U.S. District Court for Southern California dismissed the case in April 2020.

In the 9th U.S. Circuit Court of Appeals, the petitioners argued the measure compels out-of-state producers to change their operations to meet California's standards, impermissibly regulating extraterritorial conduct outside the state's borders.

In July 2021, the court disagreed, saying Prop 12 does not dictate the price of products and does not tie the price of in-state products to out-of-state prices and does not violate the underlying principles of the commerce clause.

In its brief, Harvard's clinic argued the Court of Appeals correctly held that Prop 12 does not burden interstate commerce and, moreover,

the petitioners failed to adequately state a claim regarding the economic burden actually imposed by the initiative.

"Petitioners' argument is premised on the erroneous assertion that the initiative 'effectively' requires group housing. However, although Pork Producers can opt to use group housing as a means of satisfying the initiative, they can also satisfy the conditions of the initiative by using larger stalls," the brief stated.

Their complaint fails to allege that this option would cause them undue economic harm that is "excessive" in relation to the local benefits conferred by the initiative, it said.

"Proposition 12 also confers important local benefits, long recognized as falling within the purview of state regulation — the protection of the public health and morals by prohibiting the in-state sale of products produced via cruel confinement practices," the brief said.

The initiative ensures that California residents, who overwhelmingly voted for this legislation, are not complicit in the production of meat products by "cruel" means, and that those Californians who wish to consume pork can do so without contributing to such "cruelty," it said.

"Contrary to the allegations made in petitioners'

complaint, the confinement practices prohibited by Proposition 12 are demonstrably cruel and inhumane with highly detrimental impacts on the physical and psychological welfare of female pigs," the brief said.

In a press release, Rebecca Garverman, an attorney and clinical fellow at Harvard, said Prop 12 addresses practices that condemn a pregnant pig to spend most of her reproductive life in a tiny crate.

"Our brief illustrates the cruelty and inhumanity of this kind of confinement with photographic and videographic evidence of pigs suffering in these horrific gestation crates," she said.

Ruling says USDA's farm tracking data protected from public disclosure

By MATEUSZ PERKOWSKI
Capital Press

The USDA's tracking information for farms receiving financial assistance is exempt from public disclosure under the Freedom of Information Act, according to a federal appeals court.

The U.S. Court of Appeals for the D.C. Circuit has ruled that USDA isn't required to divulge the numbers it assigns to farms, operators and tracts enrolled in federal agriculture programs.

Such information could be used to deduce an individual farmer's financial situation, which would "interfere with personal privacy" enough to "trigger the exemption" to FOIA, the appellate court said.

"The release of customer numbers would impact a substantial privacy interest," the ruling said. "The USDA uses customer numbers in records



Capital Press File

A federal appeals court has ruled that USDA's tracking information for farmers enrolled in assistance programs is protected from public disclosure.

on land sales, business relationships, crops planted and the programs in which owners are participating."

Telematch, an agribusiness marketing firm that commonly does business as Farm Market iD, sought the USDA's records to better sell seeds, pesticides, fertilizers and other inputs. The USDA denied that request and its decision was affirmed by a federal

judge in 2020.

On appeal, the company argued that numbers used to track the locations of farms and tracts don't qualify as "geospatial information" that Congress has exempted from FOIA.

According to Telematch, the exemption only applies to geographic map imagery that reveals land characteristics. The company cited vari-

ous definitions of "geospatial information" found in federal statutes, USDA documents and Wikipedia.

However, the appellate court said those definitions don't bear directly on the FOIA exemption and don't necessarily exclude farm and tract numbers. For example, farm and tract numbers could fall under the federal definitions cited by Telematch, since they're "tied to a location on the Earth" and "identify the location and boundaries of areas of land," the ruling said.

Meanwhile, the ordinary meaning of "geospatial information," as defined by the dictionary and other sources, includes such farm and ranch numbers, according to the appellate court.

The customer numbers assigned to farm operators are also exempt from FOIA disclosure, even though they generally don't directly identify individuals, the ruling said.

Such numbers can still be "used to ascertain their identities" based on information previously released by USDA that's easily found online, the ruling said. "Release of further records containing customer numbers thus would allow the public to learn more about the corresponding farm owners."

Telematch argued the customer numbers would help the public ensure that USDA is accurately calculating subsidies and benefits for farmers.

The appellate court acknowledged that it found this argument persuasive in a 2008 ruling, which determined the public interest outweighed the threat to farmers' privacy.

Since then, though, a provision passed by Congress in the 2008 Farm Bill "substantially changes our analysis of both sides of the balance," the appellate court said.



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6 Important Farm Safety Tips


By Lauren Denton
National FFA

National Farm Safety and Health Week is recognized every year during the third week in September, intentionally coinciding with fall harvest, one of the busiest and most dangerous times of year for farmers.

However, farming hazards are present during any season, and it's important to know how to spot and prevent them. While agriculture safety applies to a broad range of topics, here are a few general tips to keep in mind, no matter what your task.

- 1. Educate yourself.** Before you begin, learn all about the mechanics and risks of your specific project. Start with the National Education Center for Agricultural Safety (NECAS), which hosts National Farm Safety and Health Week. In addition to free webinars, you can find an extensive list of resources on its website.
- 2. Stock a first aid kit.** And restock, emphasizes Dan Neenan, director of NECAS. Neenan, a trained paramedic, has developed a farm first aid kit based on the injuries he and his team see most in farming situations. It comes in a sturdy canvas bag and includes large bandages, a thermal blanket, large shears, and four times the eyewash of standard kits. In some cases, you might want to stock it with additional supplies to relieve allergic reactions in an emergency. Your kit should go wherever you go.
- 3. Check your fire extinguisher.** Ideally, test it twice a year. Sometimes it will have power but not propellant, so make sure to fill it after each use.
- 4. Read markings on every vehicle you'll be in or near.** Neenan notes that while tractor rollovers are decreasing, ATV/UTV rollovers are increasing. Don't exceed the weight limits, as that can impact steering and braking, and avoid roadways because the tires are created for off-road driving. Wear your helmet and seat belt, if there is one, and steer clear of moving parts of any vehicle, especially PTO shafts behind tractors.
- 5. Avoid wearing loose clothing and jewelry.** They can get in the way of your job, or worse — snag and injure you.
- 6. Ask for help.** Neenan says stress and emotional health concerns are rising in farming communities. Know who to call, and recognize when you need to call.

For more specific farming safety tips, visit NECASag.org.



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