FARM ANIMAL WELFARE LAWS

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Most Farm Animal Welfare Laws are STATE specific laws.

**Federalism**

System of government in which powers are *divided* and *shared* by a central government and its sub-divisional governments.
Federal Laws

• Twenty-Eight Hour Law (1906, Reenacted in 1994)
  • Animals transported across state lines may not be confined in a vehicle or vessel for more than 28 consecutive hours without unloading for feeding, water, and rest.

• Poultry Products Inspection Act (1957)
  • Poultry must be slaughtered using “good commercial practices.”

• Humane Slaughter Act (1958)
  • Outlines the methods of slaughter that are deemed to be “humane,” and thus appropriate for use in slaughtering livestock.
Federal Laws (cont’d)

• Animal Welfare Act (1966)
  • Secretary of Agriculture may create standards to govern the humane treatment of animals by dealers, research facilities, and exhibitors.
  • Farm animals are exempt. 7 U.S.C. § 2132(g)

• Horse Protection Act (1970)
  • Makes it a crime to exhibit or transport for exhibition any “sore” horse, which is a horse whose feet have been injured in order to alter the horse’s gait.
State Law Trends

- Animal Cruelty Laws
- Confinement Statutes
- Restricting Production Practices
- Livestock Standards Boards
- Prohibiting Local Action
- Right to Farm
  - Nuisance Protection
  - State Constitutional Right
- Laws prohibiting undercover filming of farms (a.k.a. Ag Gag)
Animal Cruelty

• All 50 states have enacted some sort of legislation prohibiting cruelty to animals.

• Approximately 30 states provide exemptions for “common,” “normal,” or “customary” farm animal husbandry practices.

• State Laws vary on who has authority to investigate.
  • Local law enforcement
  • State animal health officials
  • Local humane societies

Confinement Restriction Statutes

- Laws tend require animals can “turn around freely, lie down, stand up, and fully extend limbs”

- Pregnant sows, veal calves, and poultry are most common species covered

- Phased out time frames

- Common Exemptions:
  - Farrowing hogs
  - Veterinary care
  - Slaughter
  - Transportation
  - Exhibitions
  - Research

http://nationalaglawcenter.org/state-compilations/farm-animal-welfare/ provides text of state farm animal confinement statutes.
Ballot Initiative States

[Map of the United States showing states with different types of ballot initiatives: initiated statutes and amendments, initiated statutes only, referendum only, initiated amendments only, and no initiative & referendum.]
Confinement Restriction Statutes

- Florida (2002)
  - Pregnant Sows
  - Ballot Initiative

- Arizona (2006)
  - Pregnant Sows & Veal Calves
  - Ballot Initiative

- Oregon (2007)
  - Pregnant Sows by 2013
  - Legislative

- Colorado (2008)

- California (2008)
  - Laying hens, Pregnant Sows, & Veal Calves
  - Effective January 1, 2015
  - Ballot initiative

- Hog Gestation Stalls by 2018
- Legislative agreement to avoid ballot initiative
California Proposition 2 (2008)

- Passed with 63.5% of the vote.

- Proponents
  - YES! On Prop 2
  - $10.6 Million

- Opponents
  - Californians for SAFE Food
  - $8.9 Million

- 2010 – Expanded to apply to eggs coming in to California from hens raised in other states.

- 2014 Farm Bill – King amendment would have prohibited states from enacting laws placing conditions on means of production for agricultural goods sold within its boarder but produced in other states.
  - Not included in final bill
Confinement Restriction Statutes (cont’d)

- Maine (2009)
  - Pregnant Sows and Veal Calves by 2011
  - Civil in addition to Criminal action
  - Legislation

- Michigan (2009)
  - Veal Calves by 2012
  - Pregnant Sows & Laying Hens by 2019
  - Legislation
  - Original bill would have codified livestock industry quality assurance program as the basis for animal care and given the Department of Ag the authority to implement industry-developed standards.
  - Ultimate bill controversial within the agriculture industry

- Washington (2011)
  - Phase out laying hen battery cages
  - Legislation
National Legislation Attempt

- United Egg Producers (UEP) and the Humane Society of the United States (HSUS) had an agreement and worked together seeking federal law which would have:
  - doubled space per hen in houses by 2029
  - required housing enrichments
  - mandated labeling about production practices on egg cartons

- HSUS agreed to not initiate, fund, or support ballot measures on the topic during the agreement.

- Dissolved when not included in the 2014 Farm Bill
Confinement Restriction Statutes (cont’d)

• Rhode Island (2012)
  • Pregnant Sows & Veal Calves
  • Bans tail docking
  • Legislation

• New Jersey (2014)
  • NJ Governor Chris Christie vetoed bill banning gestation stalls for hogs.

• Massachusetts (2016)
  • Pregnant Sows, Laying Hens, & Veal Calves
  • Also bans selling products from animals raised in prohibited environment even if from out of state
  • Effective in 2022
  • Ballot Initiative
Restricting Certain Production Practices

  - Force feeding birds more food than they would naturally eat

- Tail docking
  - Regulated in 14 states in some fashion, including being illegal in some

- Devocalization of dogs
  - Prohibited in 5 states under certain circumstances
Missouri Proposition B

- 2011 - Missouri proposition B dictated production practices for dog breeders.
  - limit number of dogs to 50 per kennel
  - sufficient space to turn and stretch feely, lie down, fully extend limbs
  - limits breeding to no more than twice in 18-month time frame

- Ballot initiative passed with 51.6% of votes

- Legislature passed bill removing the prohibition of a breeder having more than 50 dogs.
Missouri Proposition B

Proposition B
Yes / No Votes by County
Select a county to view detailed race results.

Precincts Reported Complete: 100%

Ballot Votes Statewide

No Votes: (48.4%)
Yes Votes: (51.6%)

Ballot Colors:
- Yes Votes
- No Votes

12 of 114 counties plus city of Saint Louis
• Ohio (2009)

  • Legislature submitted resolution to put a ballot initiative to vote to amend the Ohio Constitution to create a board that would set livestock welfare standards.

  • Passed with 64 %

  • Regulations passed in 2010 phase out gestation crates (2025), require cage size for laying hens (2016), and phase out veal crates (2018).
Animal Care and Standards Boards

- Alabama
- Illinois
- Louisiana
- Kentucky
- Ohio
- Rhode Island
- Utah
- Vermont
- West Virginia
Laws Outlining Production Practices

• Requirements that certain animal care standards be met
  • E.g. Oregon (2011) law sets out standards for enclosures for egg-laying hens, including meeting enrichment standards set by American Humane Association's farm animal welfare certification program.

• Requirements that food and water be provided
  • E.g. Virginia (2011)
New Jersey

• 1995 law directing NJ Department of Agriculture to develop “standards for the humane raising, keeping, care, treatment, marketing, and sale of domestic livestock.

• Regulations allowed the use of “routine husbandry practices,” defined as “techniques commonly taught by veterinary schools, land grant colleges, and agricultural extension agents.”

• Lawsuit
  • Impermissibly broad
  • Unlawful delegation of authority
  • Challenged specific practices

• 2008 NJ Supreme Court
  • Struck down the definition of “routine husbandry practices.”
  • Upheld crating and tethering practices based on science.
  • Invalidated tail docking.
Prohibit Local Action

- Some states have passed laws preempting all local laws regarding the care and handling of livestock.
- These statutes clarify that animal care rules are solely a state issue, typically left up to the state Department of Agriculture or an Animal Care Board.
  - Examples: Georgia, Alabama, Oklahoma (2009)
  - Examples Combining Prohibiting Local Action and Creating an Animal Care Board: Kentucky, Louisiana (2010)
Other Trends

• Right to Farm / Produce Livestock

• All 50 states have some sort of “right to farm” nuisance protection laws.

• Some states are adding a right to farm, produce livestock, and/or hunt and fish provision to their state constitutions.
Other Trends

- Laws prohibiting undercover filming of farms
  - Date back to 1980 (KS) and 1991 (MT & ND)
  - Surge of states considering since 2011

- Focus Varies
  - Activity of filming.
    - 1st Amendment Challenges
  - Gaining access to property by false pretenses.
  - Require abuse be reported and full footage, if any, provided to law enforcement.
Questions

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