factsheet

Oppose the King Amendment to the Farm Bill

The Farm Bill recently passed by the House contains a provision proposed by Rep. Steve King (R-IA) that seeks to negate most state and local laws regarding the production or manufacture of agriculture products. Added by voice vote during the House Agriculture Committee's full committee markup, the King amendment is a radical federal overreach that aims to block state laws protecting farm animals in a way that could also preempt a wide swath of state laws covering everything from child labor to dangerous pesticides to labeling of farm-raised fish.

"We must retain the ability to protect the nation's food supply against these threats. The King amendment would undermine these efforts."

- California Secretary of Agriculture Karen Ross

What the King amendment directs:
"The government of a State or locality therein shall not impose a standard or condition on the production or manufacture of any agricultural product sold or offered for sale in interstate commerce if (1) such production or manufacture occurs in another State; and (2) the standard or condition is in addition to the standards and conditions applicable to such production or manufacture pursuant to (A) Federal law; and (B) the laws of the State and locality in which such production or manufacture occurs."

Agricultural products are defined as in 7 U.S.C. 1626, which includes "agricultural, horticultural, viticultural, and dairy products, livestock and poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured product thereof."

Unprecedented assault on historic power of states to protect health and welfare of their own citizens:
The King amendment tries to nullify state laws and strip states of their right to ensure the health and welfare of their citizens, forcing them to authorize the purely local sale and consumption of "any agricultural product" – no matter how dangerous, unethical, environmentally destructive, or otherwise of concern. The amendment seeks to put each state at the mercy of any other state whose legislature has a differing view about the public health, safety, or welfare associated with a product. If any one state in the union tolerates the production or sale of a particular agricultural product, no matter how offensive or threatening to the public interest, then the other 49 must do so as well.

The King Amendment violates the Tenth Amendment's guarantee that the states' sovereign rights cannot be abridged by Congress, and tries to eliminate states' historic police powers within their borders and destroy the fundamental principles of federalism that have guided our nation since its founding. Congress' authority to regulate interstate commerce is a very different thing than stripping the Sovereign States of their traditional authority to regulate to protect the health, safety, and morals of citizens within their borders. This amendment has nothing to do with interstate commerce, and everything to do with IN-state commerce. In effect, it's a federal takeover of longstanding state internal legislative authority, which deprives the States of their right to a Republican form of government.

The King amendment also violates the basic separation of powers doctrine by trying to seize for Congress the authority to interpret the Commerce Clause according to one legislator's view. However, under the Constitution of the United States, it is for the Supreme Court to interpret the nation's laws, including the Commerce Clause.

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State animal welfare laws targeted:
Rep. King's amendment takes aim at state laws such as California's Proposition 2, approved overwhelmingly by voters across the state in 2008 – to ban extreme confinement cages and crates for laying hens, pigs, and veal calves – and a law passed subsequently by a landslide margin in the state legislature to require any shell eggs sold in CA to comply with the requirements of Prop 2. In addition, the King amendment seeks to nullify state laws in Arizona, Colorado, Florida, Maine, Michigan, Ohio, Oregon, Washington, and Rhode Island dealing with intensive confinement of farm animals. It could also undo laws on horse slaughter and horse meat in California, Florida, Illinois, Mississippi, New Jersey, Tennessee, and Texas (and a ban in New Jersey currently awaiting signature into law), bans on the sale of foie gras produced by force-feeding, bans on possession and commerce of shark fins in Delaware, Maryland, Hawaii, Washington, Oregon, California, Illinois, Guam and the Northern Mariana Islands, and potentially even bans on the sale of dog and cat meat.

Other state laws under the King amendment ax:
Besides animal welfare laws, the King amendment may nullify a wide range of measures regarding food safety, labeling, environmental requirements, labor standards, and other issues. For example:

- Alaska, Arkansas, Louisiana, and Washington laws requiring labeling of farm-raised fish
- Vermont's ban on BPA in baby food jars and infant food containers
- Maryland's ban on arsenic in poultry feed
- California's Proposition 65 requiring the state to publish a list of chemicals known to cause cancer, birth defects, or other reproductive harm, and businesses to notify citizens about significant amounts of chemicals in products, homes, workplaces, or released into the environment
- State pollution standards, such as bans on spraying sewage on crops directly before they are fed to people, and laws such as Minnesota's requiring farmers to hire a licensed sludge applicator and restricting when and how sludge can be applied to cropland or pasture
- Bans on use of dangerous pesticides on crops, such as California's ban on methyl iodide use for strawberries
- Iowa's labeling requirements and germination standards for seeds
- Illinois, Indiana, Kentucky, Maine, Michigan, Minnesota, New York, Ohio, Pennsylvania, Vermont, and Wisconsin laws restricting firewood transported into the state in order to protect against invasive pests and damage to local forests
- Iowa's prohibition on sale of raw milk
- Iowa's ban on use of any fat or oil other than milk fat in milk, cream, ice cream, and certain other dairy products
- Iowa's requirement for labeling of artificial sweeteners in products
- South Dakota's label requirements for distiller's grains sold as livestock feed to specify sulfur percentage
- Various laws concerning agricultural employment, including child labor laws, standards for inspections and certification programs, laws governing use of dangerous farm machinery (such as Washington's mandate for certain guards on farm field equipment including tractors), and health and safety standards for agricultural employees (such as Washington's code regulating issues including field sanitation, pesticides, respiratory hazards, and hearing loss prevention)

<u>Congress should reject the King amendment and its radical assault on duly-enacted state laws covering a broad spectrum of concerns – it doesn't belong in any House-Senate negotiated package of final legislation.</u>