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CALIFORNIA'S PUSH TO REGULATE THE INTERSTATE EGG MARKET

By: Darren Smith

In 2008, California voters concerned with the condition of egg laying hens, and other farm animals, took to the ballot and passed the initiative known as Proposition 2 (hereinafter "Prop 2").^[i]

^[ii] At the time Prop 2 was passed, ninety-five percent of U.S. farm hens were kept in cramped, wire battery cages stacked on top of each other in warehouses.

^[iii] The average space a

hen has in its cage is equivalent to a letter-sized sheet of paper.

^[iv] Thus, the stated purpose of the initiative was to "prohibit the cruel confinement of farm animals in a manner that does not allow them to turn around freely, lie down, stand up, and fully extend their limbs."

^[v] According to the Official Voter Information Guide, available to California voters in 2008, the arguments in favor of Prop 2 stated it was a "moderate measure that stops cruel and inhumane treatment of animals" and that it was "simply wrong to confine...egg-laying hens in tiny cages barely larger than their bodies."

^[vi] Perpetration of this measure is a misdemeanor, with any violator subject to a \$1,000 fine and/or 180 days in jail.

^[vii] The cage requirement went into effect Jan. 1, 2015.

Two years later, California passed Assembly Bill 1437,

^[viii] a companion piece to Prop 2, which prohibited the sale of any egg laid by a hen not caged in compliance with Prop 2 into California.

^[ix] AB 1437 expands Prop 2 by going a step further. Although, Prop 2's cage requirements were binding solely on California farmers, AB 1437 stated that any eggs produced outside of California, not in compliance with Prop 2, are not welcome for sale at California's doors.^[x]



(http://www.upc-online.org/battery_hens/photo_2.html)

However, the text of AB 1437, unlike the text of Prop 2, stressed more of a health rationale, instead of Prop 2's animal welfare argument.^[xi] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_edn11) The text of AB 1437 states that hens that are allowed to behave naturally (such as by fully extending their wings) are healthier and safer for human consumption.^[xii] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_edn12) The bill warns that "egg-laying hens subjected to stress are more likely to have higher levels of pathogens in their intestines and the conditions increase the likelihood that consumers will be exposed to higher levels of food-borne pathogens" and that salmonella is the most common food-borne illness in the United States.^[xiii] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_edn13) The same penalties applicable to Prop 2 also apply to AB 1437, that is, an individual in violation of the bill is subject to a \$1,000 fine and/or a 180 day jail sentence.^[xiv] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_edn14) Also, AB 1437 was scheduled to not go into effect until Jan. 1, 2015.^[xv] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_edn15) With California's measures now in effect, it is yet to be seen whether farmers will comply, and if not, whether California will enforce its laws.

[i] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_ednref1) *Proposition: Prevention of Farm Animal Cruelty Act*, 2008 Cal. Legis. Serv. Prop. 2 (West).

[ii] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_ednref2) Jonathan R. Lovvorn & Nancy V. Perry, *California Proposition 2: A Watershed Moment for Animal Law*, 15 *Animal L.* 149, 152 (2009).

[iii] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_ednref3) *Id.*

[iv] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_ednref4) *Proposition: Prevention of Farm Animal Cruelty Act*, 2008 Cal. Legis. Serv. Prop. 2 (West).

[v] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_ednref5) *Official Voter Information Guide*, California General Election (Nov. 4, 2008), <http://www.voterguide.sos.ca.gov/past/2008/general/argu-rebut/argu-rebut2.htm>.

[vi] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_ednref6) *Proposition: Prevention of Farm Animal Cruelty Act*, 2008 Cal. Legis. Serv. Prop. 2 (West).

[vii] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_ednref7) *Id.*

[viii] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_ednref8) *Assem. Bill 1437*, 2010, http://leginfo.ca.gov/pub/09-10/bill/asmb/ab_1401-1450/ab_1437_bill_20100706_chaptered.html.

[ix] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_ednref9) *Id.*

[x] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_ednref10) *See Id.*

[xi] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_ednref11) *See Id.*

[xii] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_ednref12) *See Id.*

[xiii] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_ednref13) *Id.*

[xiv] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_ednref14) *Id.*

[xv] (file:///C:/Users/195184/Downloads/Smith%20Blog%20Post-Revised.docx#_ednref15) *Id.*

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631 SOUTH LIMESTONE, LEXINGTON, KY

40508 (859) 257-4747 BLOG.KJEANRL@GMAIL.COM ([MAILTO:BLOG.KJEANRL@GMAIL.COM](mailto:BLOG.KJEANRL@GMAIL.COM))