

**Alabama State Association of Cooperatives • Animal Outreach of Kansas • Animal Legal Defense Fund
ASPCA (American Society for the Prevention of Cruelty to Animals) • Automatic Fire Alarm Association
Center for Biological Diversity • Center for Campus Fire Safety • Center for Environmental Health
Center for Food Safety • Center for Human Rights and Constitutional Law
Center for Science in the Public Interest • Citizens for a Clean Pompton Lakes (NJ) • Clean Air Task Force
Compassion for All Animals (student organization at University of Kansas)
The Compassion In Action Club (Newport Beach, CA) • Compassion in World Farming
Compassion Over Killing • Connecticut League of Conservation Voters • Conservation Minnesota
Consumer Federation of America • Consumers Union • Defenders of Wildlife
Edison Wetlands Association (NJ) • Environment America • Environmental Working Group
Farm Forward • Farm Sanctuary • Farmworker Justice
Federation of Southern Cooperatives/Land Assistance Fund • Food Animal Concerns Trust (FACT)
Food and Water Watch • Friends of the Earth U.S. • Friends of Family Farmers • Georgia Organics
Green Cities California • Greene County Democrat (Eutaw, AL newspaper) • Greenpeace USA
Government Accountability Project • Humane Society Legislative Fund
The Humane Society of the United States • Humane Society Veterinary Medical Association
Illinois Citizens for Clean Air & Water • Illinois Environmental Council
Institute for Agriculture and Trade Policy • International Code Council
Johns Hopkins Center for a Livable Future • KHEART (Kansas Horse Education Advocacy Resource Team)
LCV (League of Conservation Voters) • Mercy For Animals • Minnesota Food Association
National Association of State Fire Marshals • National Consumers League
National Fallen Firefighters Foundation • National Organic Coalition
National Sustainable Agriculture Coalition • Natural Resources Defense Council • New Jersey Sierra Club
Northeast Organic Farming Association (NOFA)-Mass.
Northeast Organic Farming Association (NOFA)-VT • Oregon League of Conservation Voters
Oregon Humane Society • Organic Consumers Association • PACK (Pet Animal Coalition of Kansas)
People for Animal Rights of Central New York • Pesticide Action Network • The Pew Charitable Trusts
Physicians Committee for Responsible Medicine • PLBA Housing Development Corp. (Gainesville, AL)
Rural Coalition • San Diego County Green Party • Sierra Club • Socially Responsible Agricultural Project
Sonoma County Conservation Action • Texas League of Conservation Voters
Texas League of Conservation Voters Educational Fund
Union for Humans, Animals and the Environment (student organization at Fort Hays State University)
Union of Concerned Scientists • The Urban Cat Project • Waterkeeper Alliance
World Society for the Protection of Animals**

August 22, 2013

Dear Senator/Representative:

The undersigned groups write to express strong opposition to a provision offered by Representative Steve King, Amendment #71 adopted during the House Agriculture Committee's markup of H.R. 1947 (the Federal Agriculture Reform and Risk Management Act of 2013), and now part of the Farm Bill passed by the House on July 11th (Sec. 11312 of H.R. 2642). We urge you to do all you can to ensure that neither this language nor anything like it is included in final House-Senate legislation. Rep. King's amendment aims to block state laws protecting farm animals. The provision is so broad and overreaching that it could also preempt a wide swath of state laws covering everything from child labor to dangerous pesticides to labeling of farm-raised fish to alcohol and tobacco products. It seeks to negate most state and local laws regarding the production or manufacture of agriculture products, directing:

“[T]he 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 force states to authorize the purely local sale and consumption of “any agricultural product” – no matter how dangerous, unethical, environmentally destructive, or otherwise of concern. In other words, if any one state in the union tolerates the production or sale of a particular agricultural product, under the King amendment the other 49 must do so as well. This 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. The King amendment seeks to trigger a race to the bottom, forcing states to allow commerce in products they have banned. As the Supreme Court has made clear, the Commerce Clause allows Congress to regulate commerce; it doesn’t give Congress the authority to mandate its creation, nor to require citizens to participate in commerce they find objectionable. The King amendment is so vaguely worded, it could stop states from regulating strictly in-state producers, as long as the agricultural product is sold into the interstate commerce stream at some point by someone in another state. Interpretation of this amendment would likely be litigated for years, creating uncertainty that stifles business and limits economic growth.

STATE LAWS UNDER THE KING AMENDMENT AX:

Rep. King’s amendment takes aim at state laws approved overwhelmingly by voters through ballot initiatives or by state legislatures. The King amendment could negate a wide range of measures regarding animal welfare, food safety, labeling, environmental requirements, fire safety, labor standards, and other issues. It is standard practice for states to impose conditions relating to the production or manufacture of agriculture products in order to safeguard their citizens. Some examples include state laws regarding use of dangerous pesticides on crops; arsenic in poultry feed; rules on raw milk, milk fat, and milk solids; standards on alcohol production such as additives, container sterilization, and age limits for manufacturer employees; tobacco laws, including laws requiring cigarettes to meet fire safety standards; labeling of farm-raised fish, artificial sweeteners, maple syrup, alcohol, distiller’s grains, and other products; rules on firewood transported into the state in order to protect against invasive pests and damage to local forests; shipment of Christmas trees; labeling requirements and germination standards for seeds; listing of chemicals known to cause cancer, birth defects, or other reproductive harm, and notification of significant amounts of chemicals in products; state pollution standards, such as bans on spraying sewage on crops directly before they are fed to people, and requirements for lagoon siting, wastewater discharge, and use of licensed sludge applicators; agricultural employment, including child labor laws, standards for inspections and certifications, and health and safety standards for agricultural employees involving use of dangerous farm machinery, field sanitation, exposure to pesticides, respiratory hazards, heat-illness, and hearing loss prevention; and animal welfare laws restricting practices such as intensive confinement of animals on large farms, horse slaughter, the killing of sharks for their fins, and the sale of dog and cat meat. States require disclosure of certain ingredients, restrict the sale of products that citizens and state legislators have determined have a negative impact on the environment or population, protect against public nuisance, require certain certifications – the sweeping language of Amendment #71 could brush away countless laws adopted by states with regard to agriculture.

We urge Congress to reject the King amendment or any similar radical assault on duly-enacted state and local laws.
We appreciate your consideration.

Sincerely,

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