



Written by [Bob Adelman](#) on December 23, 2014

Egg Wars Raising Prices and Constitutional Issues

It didn't take long for the unintended consequences of the passage of Proposition 2 in California in 2008 to show up in the marketplace as well as the courtroom.

Although the elimination of "basket cages" to house hens on egg farms in California was not to be fully implemented until January 1, 2015, the consequences were already evident in 2010. The California legislature passed an ordinance requiring that all eggs sold in California come from farms where "egg-laying hens ... be confined only in ways that allow [them] to lie down, stand up, fully extend their limbs and turn around freely."



This was part of the "animal rights" agenda already in place in the European Union that established the "Five Freedoms for Farm Animals" originally proposed by animal rights groups in the United Kingdom in 1965 and implemented by the EU in 1999.

As William Jasper noted [in a recent article](#) for *The New American* on this issue, the Humane Society of the United States (HSUS) now reflects the animal rights agenda and was a major force behind the push to pass California's Proposition 2.

As the implementation date drew closer, egg farmers in California were investing millions to make their egg farms compliant, thereby reducing the number of laying hens while increasing their maintenance costs. In anticipation, prices for eggs at the store have increased by a third already this year and are expected to go even higher.

But with the additional ruling by California's legislature in 2010 that all eggs sold in California, whether raised in California or not, must meet Proposition 2's requirements, pushback from Missouri's Attorney General Chris Koster began in earnest in February when he challenged the law. The challenge rested primarily on claims that Proposition 2 violated the Commerce Clause of the U.S. Constitution, which grants the national government the power "to regulate commerce ... among the several states."

As noted by the American Bar Association's *Journal*, the onerous impact on out-of-state egg farmers means that "the Golden State is effectively regulating interstate commerce in violation of the Constitution." It was clear from the beginning that it was a protectionist measure to keep out-of-state egg producers from undercutting California's own producers. As the California State Assembly's own Committee on Appropriations noted, "The intent of this legislation is to level the playing field so that in-state producers are not disadvantaged."

Calvin Massey, professor emeritus at San Francisco's Hastings College, agreed: "[Other cases] have identified the Commerce Clause as a device to guarantee a national free trade marketplace. Thus, a state's desire to ... protect local enterprise from outside competition is ... an illegitimate objective."

Attorney General Koster was soon joined in the lawsuit by attorneys general from Nebraska, Alabama, Oklahoma, Kentucky, and Iowa. When it was tossed by a federal district court judge in October for lack



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of standing, a spokesman for Koster declared:

We disagree with the federal court's opinion that Missouri lacks standing to defend its businesses and consumers against burdensome economic regulation imposed by out-of-state legislatures....

[The lawsuit is] about whether elected officials in one state can regulate the practices of another state's citizens, who cannot vote them out of office.

Alabama's Attorney General Luther Strange added:

In Alabama, consumers are free to make their own choice of which eggs to buy at their grocery stores, and it is preposterous and quite simply wrong for California to tell Alabama how we must produce eggs.

If California can get away with this, it won't be long before the environmentalists in California tell us how we must build cars, grow crops and raise cattle, too.

Strange ought to remember that this is exactly what California — a state with more than 10 percent of the nation's population — has been doing for decades. As Cally Carswell noted last month in *Modern Farmer*: "California has long been to environmental law what New York is to fashion: It leads, others follow." The state's draconian vehicle emissions standards passed decades earlier have been adopted at the federal level, and now movements to set more humane standards for hens have been approved by voters in Oregon, Washington, Michigan, and Ohio.

This delights officials at the Humane Society, who have a much more extreme agenda. They don't just want egg-laying hens to have more comfortable quarters. They want to eliminate the domestic livestock industry in the United States altogether. Humane Society Vice President Miyun Park said, "We have a very active cage-free campaign. Are we saying that cage-free eggs are the way to go? No, that's not what we're saying. But it's a step in the right direction."

That direction was clarified when she added, "We don't want any of these animals to be raised and killed."

Koster's appeal is pending. In the meantime, egg prices (which have increased by 34 percent just in the last year) are destined to head even higher, perhaps by as much as 25 percent higher. That means consumers across the country will be paying between \$3 and \$5 a dozen, thanks to animal rights activists who have captured California's legislature, ignoring the Commerce Clause along the way.

The temptation is too great not to remind readers of the quote from the revolutionary communist dictator Joseph Stalin: "You can't make an omelet without breaking a few eggs."

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