

High Court Tosses California ‘Downer’ Law

In a unanimous decision issued Jan. 23, the U.S. Supreme Court struck down a California law that bans the processing of all nonambulatory animals.

The California Legislature approved the law in 2008 after a video was released by animal activists, showing

nonambulatory, or “downed,” cows at a California beef packing plant being dragged and prodded to enter the processing line. The statute prohibited the buying, selling or receiving of nonambulatory animals; the processing, butchering or selling of meat or products

from nonambulatory animals for human consumption; and the holding of nonambulatory animals without taking immediate action to humanely euthanize them.

[As part of its efforts to address bovine spongiform encephalopathy (BSE), the

USDA already forbids the slaughter of downed cattle.]

The National Meat Association (NMA) challenged the law, and a federal district court judge in California blocked it. But the U.S. Court of Appeals for the Ninth Circuit in San Francisco in 2010 overturned the lower court ruling. NMA appealed the case to the Supreme Court, arguing that the Federal Meat Inspection Act (FMIA) preempts the California law.

The high court agreed with NMA, ruling that the FMIA “expressly preempts” the California law’s application to federally inspected swine slaughterhouses. It reversed the Ninth Circuit decision and sent the case back to that court “for further proceedings consistent with this opinion.”

“The Supreme Court’s ruling affirms the supremacy of the Federal Meat Inspection Act and USDA’s role in regulating meat process plants,” said National Pork Producers Council (NPPC) President Doug Wolf, a hog farmer from Lancaster, Wis. “It also recognized that nonambulatory hogs with proper recovery time and veterinary oversight do not need to be condemned immediately in all cases.”

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NPPC, which, along with the American Association of Swine Veterinarians and the National Farmers Union, filed a friend-of-the-court brief in the case, argued that the California law would create an animal health risk and criminalize the work of federal slaughterhouse inspectors. The organization also has pointed out that the state law could have prevented from being shipped to California meat processed in another state that did not adhere to the statute’s ban.

“Nonambulatory hogs that are allowed to recover pose no food-safety risk to the public,” Wolf said. “Such pigs are inspected by USDA inspectors and veterinarians regarding their fitness for processing and entering the human food supply, and strong regulatory safeguards for humane treatment in the processing of animals already exist.”



Editor’s Note: This article is adapted from a news release by NPPC.