

Congress of the United States

Washington, DC 20515

October 5, 2023

The Honorable Glenn “G.T.” Thompson
Chairman, House Agriculture Committee
Rayburn House Office Building, 2466
Washington, DC 20515

The Honorable David Scott
Ranking Member, House Agriculture Committee
Cannon House Office Building, 468
Washington, DC 20515

Dear Chairman Thompson and Ranking Member Scott:

We agree with you that agriculture plays a vital role in promoting health and well-being among the people of our nation and of others throughout the world. We also thank you for your tireless work to engage stakeholders and, as happens every five years in Congress, to reboot farm and food policy in a way that meets the demands of Americans who work in agriculture and draw from its bounty.

As the components of the Farm Bill take form, we strongly urge you to resist any attempt to undermine state laws that intersect with agricultural commerce. Specifically, we urge you not to include H.R. 4417, the Ending Agricultural Trade Suppression (EATS) Act, or any narrowed version of that measure in the Farm Bill. As applied in this circumstance, it is at odds with our foundational Republican principles of states’ rights, national sovereignty, and fair competition.

We understand that some of our colleagues question the constitutionality of Proposition 12 in California and similar measures that place limits on the sale of pork, eggs, and veal from operations that tightly confine animals in production agriculture. Those measures were subject to judicial review, as is proper and had a long run in our federal courts. A dozen federal courts, including the Supreme Court of the United States, rejected dormant Commerce Clause arguments and a set of other arguments. In settling the issue, Justices Gorsuch, Thomas, and Coney Barrett were the core of a majority decision upholding the constitutionality of Prop 12, with the majority decision declaring that “[w]hile the Constitution addresses many weighty issues, the type of pork chops California merchants may sell is not on that list.” The court noted that the Congress does have that authority under the Commerce Clause to preempt state laws if it chooses that dramatic and somewhat unprecedented action, but the majority opinion did not recommend any course of action from the Congress, as is its custom.

With the constitutionality of the measure settled in favor of the rights of states to create some evenly applied space requirement for rearing of animals, the EATS Act amounts to an attempt by the federal government to substitute its judgment for that of the states. While some of us may disagree with the policies that some states enact, it is not our job as federal legislators to dismantle them because we disagree with them. Our multi-tiered system of government allows for decision-making at the local and state level even when it sometimes creates tensions with policy makers working at the federal levels.

While the EATS Act would nullify a wide range of state laws, including a raft of state policies that the egg industry has embraced to provide more room for laying hens, the impetus for the bill comes from concerns about the effects of some state laws on the pork industry – principally in California and Massachusetts.

The EATS Act proposes to undo legitimate statewide elections on animal-housing standards, and the influence of the Chinese government is hard to miss given the profound level of control of pig production in the United States. The biggest U.S.-based pork company is wholly owned by the Chinese, controlling 26% of the U.S. pork market, and produces one in six breeding sows in the United States. The 2013 acquisition was financed solely

by the Bank of China, which is under the control of the CCP. There is no bigger example of Chinese infiltration of American agriculture than in the pork industry. This is a fact pattern that causes us deep concern.

If this pork-specific provision is incorporated into the Farm Bill, it would provide WH Group with a mechanism to bypass state-level laws and rapidly acquire even more American land and pork industry assets with no restraints at all. The Chinese are opting now, in a building boom, to build massive, high-rise pig farms, and if there were no state or federal laws to restrict such factories, they might try to do the same here. We don't want that here in our nation.

The pig industry is no monolith and thousands of pig farmers are adapting to the ever-shifting sands in the marketplace and meeting the demands of consumers. For American-owned pig producers, it is clear to us that the new state laws provide value-added market opportunities. The latest information we've obtained reveals that that California and Massachusetts together will require just 6% of total U.S. pork production to come from facilities that allow the sows an opportunity to lie down, stand up, and turn around, while nearly 40 percent of sows are already in group housing. In short, the U.S. pork industry can meet the demand from these two states right now. The transition away from gestation crates, which has been in motion for the last two decades, shows again that American farmers are the most adaptable and innovative in the world. Farmers know how to compete, and they don't need the heavy and often distant hand of federal government picking winners and losers.

For the above reasons, we strongly urge you to omit the EATS Act or its derivatives from the Farm Bill. It is essential that we prioritize U.S. sovereignty in agriculture and resist any obvious or veiled attempts to erode it from foreign actors seeking to control a larger share of production in the homeland and to undermine states' rights.

Sincerely,



Andrew R. Garbarino
Member of Congress




David G. Valadao
Member of Congress




Michael Waltz
Member of Congress



Nancy Mace
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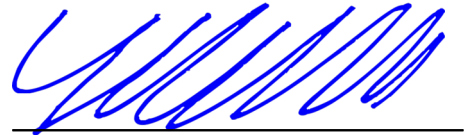
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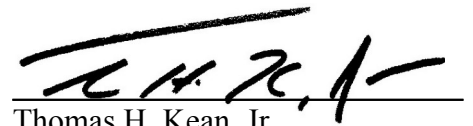
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