

THE BAKERSFIELD CALIFORNIAN

States May Prohibit Downed Animals in Food Supply

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It's been two years since a covertly recorded videotape of non-ambulatory cows being abused at a slaughterhouse led to the largest beef recall in the nation's history, but the scandal is still having repercussions.

A federal appeals court recently reinstated a California law passed in the wake of the video's release that banned using animals in the human food supply if they're too weak to stand.

Designed to prevent diseased cows from infecting people who consume beef, the law was initially supposed to be effective Jan. 1 of last year, but industry groups filed a lawsuit to stop it.

The National Meat Association sought to bar its implementation at federally inspected swine slaughterhouses, insisting the law should not apply to the pork industry.

The American Meat Institute also challenged the law, arguing that federal meat-inspection rules trump state law.

Federal rules allow the slaughter of so-called downer animals.

Late last month, the U.S. 9th Circuit Court of Appeals vacated a preliminary injunction against part of the law and remanded the entire case back to a lower court. There is not yet a hearing scheduled before the U.S. District Court, Eastern District of California.

Animal rights groups hailed the appellate court ruling as a positive sign for ultimate victory.

"The strong opinion handed down by the appellate court reinforces that California can take appropriate steps to protect consumers from getting sick and protect farm animals from extreme cruelty by calloused meat industry facilities that want to profit from the sale of diseased and disabled farm animals," said Bradley Miller, national director of the Humane Farming Association.

The office of Attorney General Edmund G. Brown Jr., which argued

for the state in the lawsuit, says it has already begun enforcing the ban.

Industry groups argue that the law doesn't take into account animals that aren't sick, such as an animal with a broken leg who might not be mobile but could still be suitable for meat.

"This is a major victory for both farm animals and consumer protection – and is a stunning legal rebuke to meat industry groups seeking to profit from the sale of diseased and disabled farm animals."

*–Bradley S. Miller
Humane Farming Association*

The law also covers healthy animals that are simply tired after traveling long distances, which is particularly problematic in the hog industry, said Rosemary Mucklow, director of the National Meat Association.

"Just like people who travel are tired when they reach their destination, pigs, when they arrive off trucks, are fatigued and want to lay down," Mucklow said. "And if you try to make them stand up when they're tired, they can get pretty ornery. So factoring in travel fatigue, this could get pretty expensive."

The Humane Farming Association scoffs at that position.

"If it weren't for the fact that we're talking about some very serious issues here related to animal cruelty and human health, that argument

would be laughable," Miller said.

The California Cattlemen's Association has stayed out of the court case. On Friday, executive vice president Matt Byrne said the group has long agreed with keeping animals too sick or weak to stand out of the human food supply.

In 2008, an investigator working undercover for the Humane Society secretly videotaped sick and disabled cows at the Westland/Hallmark Meat Co. in Chino being forced to slaughter. The animals were sometimes moved along with electric shocks and by spraying high-pressure water up their noses to simulate drowning.

Food safety regulators were alarmed by the video because inability to stand is one of the signs of bovine spongiform encephalopathy (BSE), more popularly known as mad cow disease.

An outbreak of mad cow disease in Europe cost the beef industry there more than \$100 billion. The discovery of the disease in a downer cow in the state of Washington in 2003 led some countries to temporarily ban U.S. beef.

That has made the issue of immobile cows entering the food supply extremely sensitive.

"If it's down because of chronic illness, that's a big concern," said Dr. Frank Martin, a veterinarian with Bear Mountain Vet Associates in Bakersfield. "If you're ever going to find mad cow disease, it's probably going to be in a downer cow."

Stay tuned:

In an attempt to overturn HFA's groundbreaking downed animal law, the meat industry is now seeking a hearing before the U.S. Supreme Court. We will keep you posted as these events unfold.