

**Written Testimony of Mr. Pat Hord, Ohio Pork  
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**“An Examination of the Implications of Proposition  
12.”**

**United States House Committee on Agriculture**

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## **Introduction**

The National Pork Producers Council (NPPC) represents 42 affiliated state associations, working together to ensure the U.S. pork industry remains a consistent and responsible supplier of high-quality pork to domestic and international markets. Through public policy outreach, NPPC fights for reasonable legislation and regulations, develops revenue and market opportunities, and protects the livelihoods of America's more than 60,000 pork producers.

The U.S. pork industry serves as a major contributor to the agricultural and overall U.S. economies. In 2023, U.S. pork producers marketed more than 149 million hogs valued at over \$27 billion while supporting more than 573,000 U.S. jobs and supplying consumers with nutritional products that are raised safely and humanely. The U.S. is also a global supplier of pork, with exports accounting for about a quarter of annual pork production and supporting more than 140,000 U.S. jobs. Last year, the U.S. pork industry exported more than \$8.6 billion of product to more than 100 countries.

The pork industry used roughly 1.7 billion bushels of corn and the soybean meal from 462 million bushels of soybeans in 2023. It also used about 40 billion pounds of other feed ingredients, including distillers dried grains with solubles (DDGS), a major by-product of corn ethanol production.

## **California Proposition 12**

The successes of the U.S. pork industry are particularly impressive given the challenges – weather, diseases, labor shortages – producers face to put safe and accessible food on American tables. One of the most significant hurdles the U.S. pork industry continues to face is California's Proposition 12, a challenge compounded by the reality that other states have followed suit with efforts to mandate entirely different production standards for pig farms. The risk of a balkanized patchwork of varied state regulations is causing chaos in the pork industry and threatens to cause long-term fundamental harm to the foundation of the United States economic system.

Approved in 2018 through a state ballot initiative, Proposition 12 makes it a civil and criminal offense to engage in the commercial sale within the state of California of uncooked whole pork meat derived from the offspring of sows that are not raised according to California's prescriptive, arbitrary, and unscientific animal housing standards.

Pork producers who want to sell their product in California must provide their sows a minimum of 24 square feet of space. That compares with an industry average of 18-20 square feet per sow. Proposition 12 also prohibits the use of breeding pens, which allow sows to recover in the days following delivery and nursing of piglets. Those pens also greatly reduce aggression and fighting among sows.

Despite claims by its proponents that the initiative would improve sow welfare, in drafting Proposition 12 implementing regulations, the California Department of Food and Agriculture admitted the loss of breeding pens would result in significant increases in animal mortality and

reduced litter sizes because of aggression among sows. Like other animals, sows in groups develop a pecking order, often fighting to determine their rank.

Group pens, which are functionally required by Proposition 12, place multiple sows together in a single pen. Group pens have the potential to increase pregnancy losses, lengthen recovery from weaning, and heighten risks for sow injury and death. In fact, Proposition 12 is opposed by both the American Veterinary Medical Association (AVMA) and the American Association of Swine Veterinarians (AASV).

In a [letter](#) to this Committee supporting the preemption of Prop. 12 in the Farm, Food, and National Security Act of 2024, the AVMA wrote, “Because no one husbandry style is appropriate for all circumstances, regulations aimed at improving animal welfare should be based upon scientific evidence and the professional judgement of veterinarians. The arbitrary housing requirements in Prop 12 do not objectively improve animal welfare and may unintentionally cause harm.”

In a [separate letter](#), the AASV wrote, “A well-established body of scientific literature assessing biological metrics of sow welfare in individual stalls and group pens shows that both housing methods can be important tools in managing a healthy herd. Categorically banning one of them, as Proposition 12 does, will likely harm rather than improve animal wellbeing,” and that, “Without a solution, veterinarians will be restricted in their options to maximize animal welfare based on a herd’s specific needs.”

Additionally, Proposition 12 does not enhance food safety, contrary to proponents’ claims when the measure was presented to voters. There is no evidence that housing sows in individual gestation pens increases the risk of disease spreading from the sows’ offspring to humans. Likewise, there is no evidence that disease prevalence in mature slaughter pigs has any relationship to whether their mothers were housed in groups or individual pens. Each farm mitigates food safety risks through veterinarian-established herd health plans, as well as separating market pigs from other populations. There is no correlation between the housing of sows and food safety risks.

The CDFA acknowledged that Proposition 12’s space requirements are not based on peer-reviewed science or accepted as standard in the scientific community to reduce human-borne illness.

### **Cost to Pork Producers**

The pork industry is complex, vertically segmented, and specifically designed to produce high-quality, affordable meat in a safe and efficient manner, with cuts from a single pig sold across the country. This means retailers, distributors, and packers, who would bear the consequences for violating Proposition 12, will incur significant costs when supplying pork products to the California market. And, despite not every product being covered by Proposition 12, the entire hog must be raised in a compliant manner, adding even more to the price that must be received on covered pork products to offset compliance costs. Without congressional intervention, the

industry is left vulnerable to a regulatory patchwork that fractures the national pork market based on arbitrary and costly state-by-state requirements.

Pork producers throughout the country have already collectively spent hundreds of millions of dollars converting existing structures or building new barns to continue selling pork in California.

Recent estimates show that new construction of Proposition 12 compliant barns can cost at least 15-20% more per sow than standard open pen gestation systems. Retrofitting existing barns, though highly dependent on the starting point of the barn, could cost at least \$100 per sow to provide the required square footage. This approach is also associated with at least a 30 percent reduction in throughput because of fewer sows and likely productivity impacts. To maintain their sow herd, there are also added higher operating expenses for things such as utilities, veterinary care, labor, and other costs.

While some farms, mostly larger ones, have access to sufficient capital to amortize and absorb the cost burden, smaller and independent producers have limited access to capital and cannot easily cover Proposition 12's costs. Moreover, the farms that make the effort to comply with Proposition 12 likely will experience losses in productivity, which exacerbates the challenges created by the costs associated with increasing square footage required by the initiative. Increased costs and risk will force further consolidation of the pork industry, reducing competition to the detriment of consumers nationwide.

Proposition 12 also requires that pork producers pay for and certify—through third-party audits—that their sow barns comply with the initiative's space requirements. This inspection and certification regime, in addition to being expensive and burdensome, could also interfere with farms' operations and biosecurity measures.

### **Efforts to Fix Proposition 12**

Proposition 12 was challenged in the court system by NPPC and the American Farm Bureau Federation (AFBF), with dozens of other agricultural organizations and states filing briefs in support. While the lawsuit centered on pork production, its implications were far greater and raised a host of important legal questions around federalism, the relationships between states, and the sovereign power of individual states to assert sole jurisdiction over the operation and regulation of their businesses.

The U.S. Supreme Court rejected the argument that by regulating farms outside its borders, California violated the Constitution's "dormant commerce clause," which prevents economic discrimination and protectionism but also stops states from "imped[ing] substantially the free flow of commerce from state to state."

Subsequently, the Iowa Pork Producers Association (IPPA), an affiliate of NPPC, challenged Proposition 12 in the courts based on arguments not made in the NPPC-AFBF case. In appealing lower court decisions against its suit, IPPA said allowing Proposition 12 to stand "would

implicitly endorse an individual state's regulation of an out-of-state industry based on the state's own sense of what is 'moral.' It's difficult to see where that road ends."

The organization pointed out that while its case involves pork, others could involve any good or service imaginable and would incentivize tit-for-tat trade wars among the states.

"If issues of 'morality' can drive the regulation of out-of-state industry," IPPA argued in a brief to the U.S. Supreme Court, "why couldn't future regulation be based on minimum wage policies of sister states, or employees' immigration status, or any other hot-button social issue of the day?"

"The framers [of the Constitution] prohibited precisely this type of discriminatory and overly onerous out-of-state regulation."

In fact, such extraterritoriality—the legal concept that a state's laws can apply to people or actions outside its borders—was addressed in the design of the Constitution. A state law that has the practical effect of regulating wholly out-of-state commerce is invalid, regardless of whether it also regulates in-state commerce. The practical effect of Proposition 12 is that commercial pork activity outside of California needs to comply with that state's regulations, making the initiative an extraterritorial regulation of the \$27 billion interstate pork market.

Some supporters of Proposition 12 argue that this practical effect doctrine is limitless and could invalidate a wide range of laws. But the extraterritoriality principle comes into play only when a state law has the practical effect of controlling transactions that occur entirely outside the enacting state, imposing the enacting state's policies on residents of other states and usurping the sovereign power of the other states.

The practical effect of Proposition 12 is a ban on the use of individual pens by pork producers outside of California. In-state sow producers already were prohibited from using individual pens by Proposition 2, a 2008 ballot initiative that took effect in 2015 (nearly all of California's sow operations—about 100,000 animals—moved out of the state following passage of Proposition 2). This means Proposition 12 wholly regulates out-of-state pork production.

There is nothing incidental about Proposition 12's extraterritorial effect. It applies to sows across the country, 99.9 percent of which are raised outside of California, and interferes almost entirely with out-of-state contracts. Essentially, there is no sow industry in California where sow farms cannot meet land use and environmental requirements or bear the cost of doing business.

California keeps pork production out but imposes costly measures on pork producers in other states. It does so despite having no *valid* interest in other states' animal husbandry practices or policies. To attach restrictions to the sale in California of out-of-state pork based on concerns for animals raised in other states extends California's police power beyond its jurisdictional bounds.

The Trump administration is picking up where the Biden administration left off in challenging the effects on interstate commerce of Proposition 12. On July 9, 2025, the Department of Justice

filed suit in the U.S. District Court for the Central District of California over the impacts that Proposition 12, as well as 2008's Proposition 2, have had on the national market for eggs and egg products. While the lawsuit does not impact pork products, NPPC agrees with the Department of Justice that Proposition 12, and laws like it, unnecessarily increase the cost of food and food production by manipulating interstate commerce without improving animal welfare.

Unlike laws and regulations directed at harm to in-state persons or property, philosophical objections to out-of-state policies on wages, investors, or animal welfare are not legitimate local interests. Measures such as Proposition 12 impose substantial burdens on interstate commerce that outweigh a state's negligible local benefits.

Taken as a whole, the negative effects of Proposition 12 far outweigh California's minor interests.

### **Harm to Producers and Consumers**

Proposition 12 is disadvantaging family pork producers across the country by requiring compliance with expensive and arbitrary production standards—or losing access to the country's largest pork market. Meanwhile, consumers in California already are experiencing significantly higher pork prices as a direct result of Proposition 12.

With nearly 40 million residents, California represents 12 percent of the U.S. population and an estimated 13 percent of the domestic pork market. The state has large Asian, Black, and Latino populations, all of which have longstanding cultural preferences for pork. Despite being such a large market for pork, California accounts for less than 0.1 percent of U.S. pork production and, as referenced above, is dependent on farms located outside its borders to feed its residents. Approximately 700,000 sows are needed to supply California with the product mix it routinely consumes; the state has only about 6,000 sows on commercial farms.

A [2024 report](#) by economists with the U.S. Department of Agriculture's Office of the Chief Economist found that after Proposition 12 was implemented, prices for covered pork products in California increased by 20 percent on average, with pork loins increasing as much as 41 percent. This disproportionately affects lower-income households and families battling inflation and increasing food costs.

Outside California, more widespread adoption of measures like Proposition 12 would likewise lead to consumers across the country paying higher prices for pork.

Left unchecked, a patchwork of conflicting, Proposition 12-style regulations around the country would also lead to even more consolidation of the industry as pork producers are forced to constantly reconstruct their operations or close their doors. Moreover, the producers who can afford to comply would experience losses in productivity at the same time they would face the costs of increasing their square footage. And when activists are again successful at persuading a state to adopt anything above Proposition 12's 24-square foot requirement, the wholesale revision of farm practices and contracts will start all over again.

## **Bipartisan Opposition**

The implications of Proposition 12 go far beyond pork producers' farm gates and open a Pandora's box of potential state regulations that would fracture the national market. Combined with the economic and structural impacts on the pork industry, this leads to strong opposition to Proposition 12 by officials and lawmakers in both parties.

President Trump opposes Proposition 12 and [has committed](#) to using every legal tool to address the problems it has caused outside of California's borders. [Former President Biden](#) also opposed the initiative, with his solicitor general arguing in support of the position of NPPC and American Farm Bureau Federation in their case against Proposition 12 before the Supreme Court.

In testimony before this Committee, former Agriculture Secretary [Tom Vilsack said](#) of the problems caused by Proposition 12, "If we don't take this issue seriously, we're going to have chaos in the marketplace." Likewise, current [USDA Secretary Brooke Rollins testified](#) that "California has the right to do what California wants to do. But the minute that crosses the border and begins to compromise, in such a significant way, our pork producers, we need to act."

Chairman G.T. Thompson thought Proposition 12 important enough to address in the "Farm, Food, and National Security Act of 2024." [In a letter](#) supporting that act sent May 2024 to Chairman Thompson and Ranking Member David Scott, more than 900 agricultural organizations pointed out that "California's Proposition 12 ... [is] causing turmoil in agricultural markets and having significant detrimental impacts on our members' farms and ranches, especially small- and medium-sized farms."

Senate legislation, the "Food Security and Farm Protection Act," was introduced earlier this Congress to prohibit states from imposing a standard or condition on the pre-harvest production of any agricultural products sold or offered for sale if produced elsewhere. NPPC and many other agricultural associations have [offered their support](#) for this approach.

Beyond the concerns of pork producers around the country, Proposition 12 also sets a dangerous precedent that allows a large state to effectively regulate agriculture and farming—indeed, any sector—in other states, an outcome with negative implications for interstate commerce.

## **Effects on International Trade**

Proposition 12 is not only a domestic problem. It applies to foreign pork industries that want to sell pork in California, forcing them to forgo the market or spend millions converting farms and accept foreign auditors to ensure their compliance. (Pork importing distributors will need to submit third-party certifications to California officials that their products meet the state's housing standards.)

U.S. trading partners are pushing back. The Canadian Pork Council (CPC), for example, claims [Proposition 12 violates](#) the U.S. Constitution's Commerce Clause by preventing the United States "from speaking with one voice on the regulation of foreign commerce." The CPC filed a

[friend-of-the-court brief](#) with the U.S. Supreme Court in the NPPC-AFBF case against Proposition 12.

“It’s a state proposition,” said Stephen Heckbert, executive director of the CPC. “International trade and international trade agreements are the sole provision of the U.S. government.”

Indeed, under the U.S.-Mexico-Canada Agreement (USMCA), provinces and states are not permitted to create non-tariff barriers to trade. The Canadian government issued a statement saying it is analyzing the effects of Proposition 12 on trade and considering the U.S. obligations under USMCA, as well as the World Trade Organization’s Agreement on Technical Barriers to Trade.

Furthermore, a state-based regulation with a clear international reach such as Proposition 12, created outside of normal and customary international negotiations and agreements, puts all American agriculture in a vulnerable position by providing a pathway for any nation to impose its own production standards.

## **Conclusion**

Proposition 12 has wrought negative impacts on the pork industry and set a dangerous precedent for a patchwork of state legislation. Simply stated, this must be undone. NPPC and the AFBF attempted to use the courts to reverse Proposition 12, and while the Supreme Court did not accept their arguments on the “dormant commerce” clause, the high court did make clear that Congress can act to address the problems with Proposition 12.

The bottom line is that Proposition 12’s arbitrary sow housing standards were developed without input from pork producers, veterinarians, or experts in animal care, food safety, and other elements of pork production. Proposition 12 advances no legitimate public interest. The AVMA and AASV state that it is not objectively better for animals and, further, limits tools to maximize animal welfare. The initiative has no human health benefits but rather, could increase pathogen transmission, according to the CDFA, and it eliminates pork producers’ flexibility to decide which housing methods are best for their sows, their operations, and their ability to produce safe, wholesome, affordable pork.

NPPC urges Congress to follow the path laid out by the Supreme Court and use its ability to fix Proposition 12 and the myriad problems it has created or set in motion. Congressional lawmakers should support efforts to rein in state attempts to regulate a safe, responsible, reliable \$27 billion pork industry, restore the sovereignty of states to effectively manage their own businesses, and abide by international trade obligations.