



# HOUSE COMMITTEE ON AGRICULTURE

## PROPOSITION 12

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### Background

In 2018, California voters passed Proposition 12 (Prop 12), which prohibits the sale of pork, veal, and egg products unless they are produced in compliance with the state's arbitrary and unscientific housing requirements. After an unfavorable ruling in the 9<sup>th</sup> circuit, the American Farm Bureau Federation (AFBF) and National Pork Producers Council (NPPC) filed a brief with the U.S. Supreme Court challenging the constitutionality of Prop 12, arguing the law violated the constitution's Commerce Clause. In May 2023, the Supreme Court upheld California's law in a 5-4 decision, frequently stating that Congress alone can determine how states are allowed to interfere with interstate commerce.

In the ruling, the Court assumed producers could choose whether to participate in the California Prop 12 market. Unfortunately, choosing whether to participate in a market that accounts for almost 15% of the national pork market is not a choice most producers have the luxury to make. Economists have shown that after the Supreme Court upheld Prop 12, the average price per pound of a pork loin in California rose more than 40%. They also estimate that the cost to consumers per year could be as much as \$300 million<sup>1</sup>. The cost increases are not only on the consumer side – producers are facing upwards of \$4,000 per sow to construct facilities that are Prop 12 compliant<sup>2</sup>.

The enactment of an unscientific standard by one state has created a national dilemma where consumers and producers are both on the losing side. As USDA Secretary Tom Vilsack noted in a hearing before the House Committee on Agriculture earlier this year, Prop 12 has created "chaos" in the marketplace and caused "serious concerns for producers because they have no stability, and they have no certainty."

Failure of Congress to address Prop 12 will adversely harm small and medium-sized U.S. producers, increase market concentration, reduce supply of affordable proteins, and increase costs for families nationwide.

### The 2024 Farm Bill

The Chairman's legislative solution clarifies that states and local governments cannot impose, directly or indirectly, as a condition for sale or consumption, a condition or standard on the production of covered livestock unless the livestock is physically located within such state or local government.

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<sup>1</sup> [https://s.giannini.ucop.edu/uploads/pub/2024/03/19/v27n3\\_2\\_e40mBEN.pdf#:~:text=This%20analysis%20of%20preliminary%20data,price%20due%20to%20this%20policy.](https://s.giannini.ucop.edu/uploads/pub/2024/03/19/v27n3_2_e40mBEN.pdf#:~:text=This%20analysis%20of%20preliminary%20data,price%20due%20to%20this%20policy.)

<sup>2</sup> <https://nppc.org/wp-content/uploads/2023/11/Goodwin-Prop-12-Final.pdf>

## Proposition 12: Myth v. Fact

**Myth: Any fix to Prop 12 or similar state mandates will prohibit states and local governments from implementing standards related to production and animal welfare.**

*Fact:* The Chairman's proposal protects the rights of states and local governments to establish standards of production as they deem necessary, but only for those raising covered livestock within their own borders. States and local governments can continue to govern their residents as they see fit, but they have no right to govern producers thousands of miles away.

**Myth: A solution to Prop 12 will give China access to our agricultural industry and markets.**

*Fact:* While this is a convenient strawman during a time of increased scrutiny of China's involvement in American agriculture, the claim is baseless and, in fact, the opposite is true. The reality is that protein conglomerates who have Chinese ownership have the resources to comply with such mandates, while small, American farms and ranches do not. Allowing Prop 12 to stand will undoubtedly result in further market concentration, including likely expansion of foreign-owned conglomerates.

**Myth: Fixing Prop 12 will benefit large protein conglomerates and lead to consolidation.**

*Fact:* As mentioned above, large (sometimes foreign owned) protein conglomerates have the resources to comply with Prop 12's requirements. Further, they have the ability to segregate their animals to sell into California on one hand and continue producing for different markets on the other. It is the small, family owned, American farms and ranches that will suffer the most under Prop 12. The truth is that without a fix, many independent producers will be burdened with costs they cannot afford, and they will have to sell out or integrate, thus increasing consolidation.

**Myth: Prop 12 was widely supported, and any solution is an assault on democracy itself.**

*Fact:* While you'll hear that 60% of Californian's voted for the Prop 12 ballot initiative, that only accounts for those who voted. In reality, less than 20% of Californian's exercised their right to vote on Prop 12. Put differently, less than 3% of Americans voted in favor of Prop 12. Yet, producers throughout the country – who had no right to cast a vote on California's standard – live under the rules imposed by a few voters thousands of miles away. There is nothing democratic about that.

**Myth: Addressing Prop 12 will inadvertently undo thousands of state laws that have nothing to do with agriculture.**

*Fact:* The Chairman's solution only covers livestock production (excluding domestic animals raised for the primary purpose of egg production) and does not include the movement, harvesting, or further processing of covered livestock.