

House Ag Committee- Farm Bill Markup

Interstate Commerce- Agricultural Production (King Amendment)

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Note: This is an unofficial transcript of a portion of the House Ag. Comm. 2013 Farm Bill Markup.



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Chairman Lucas: The gentleman from Iowa has an amendment to consider.

Rep. Steve King: I thank Mr. Chairman. I'd like to take up Amendment No. 71, King 71, please.

[Rep. Jeff Denham]: Mr. Chairman, I reserve a point of order.

Chairman Lucas: The gentleman reserves a point of order. Amendment No. 71. The clerk will distribute Amendment No. 71. And by unanimous consent, we will dispense with the reading of the amendment. And the gentleman, when he's prepared, may, for five minutes, explain his amendment. And the point of order has been reserved.

Rep. King: Thank you, Mr. Chairman. This amendment, I think, is well-known around this committee. I call it the "Protect Interstate Commerce Act." Its origins go back about two and a half years ago, when I began to look at the common denominators of what was happening with our agricultural products being regulated by referendum or decisions within states. And as I saw that happening with some of our commodities, I particularly paid attention when I saw them seeking to regulate the production of pork, and beef, and chickens, and ducks and geese from an individual state, but applying those regulations if those products came within the states.

And I began to realize that the Constitution, as it says the Congress, in Article I, Section 8, Clause 3 says, "The Congress shall have power to regulate commerce with foreign nations and among the several states and with the Indian tribes." It is an exclusive power of the United States Congress to regulate interstate commerce. It's not a province of the states. And when the states are regulating interstate commerce by regulating the means of manufacture or production of our agricultural products, in effect, they're simply imposing a national standard from within a state. It's exactly

what our founding fathers opposed. And it doesn't serve the purpose of free trade among the states. In fact, it runs contrary to free trade among the states.

And so I wrote a bill called the Protect Interstate Commerce Act. And we have worked this bill, and I introduced it last year before this committee. It passed by voice before this committee. I don't know that there's another amendment that has been vetted as intensively as this amendment has been vetted. We have checked with the parliamentarian, we have gone through every interest group that has voiced themselves within this committee for this markup that I know of, and for the last year we've poked through here trying to find is there a hole anywhere.

I have not found a hole anywhere. It's a solid, consistent support reinforcement of the commerce clause in the constitution, and it protects the production of our agricultural products that are listed in the code and are the jurisdiction of this committee. And it protects each of the states so that they can produce our agricultural products and then export them to any other state.

But if we allow an individual state—and some of this started, for example, Arizona banning gestation crates, and eventually the pork chops can't get across the border into Arizona. There are other states that have done similar things. [Stalls] for veal calves prohibiting that veal calves be in stalls. So they're telling somebody in Wisconsin how they're going to take care of their calves if they're going to be shipped into a place like California.

This Congress's job is to regulate interstate commerce. These topics that are part of this amendment are exactly the jurisdiction of this committee. We have narrowed this down to that, and one day I hope to broaden it to other subjects as well, which would be within the scope of the Energy & Commerce Committee.

This is an ag issue. It's well vetted. It has broad support and broad support from the American Farm Bureau on down the line, everybody I can think of, cattle and hogs and so on. Mr. Chairman, this is something that's been well vetted and well debated. People understand it. It protects the commerce clause in the constitution. It protects our producers. It protects our food supply. And the objections that may be raised have really generally been answered by the vetting process over the last two years, so I urge its adoption and I yield back the balance of my time.

Chairman Lucas: The gentleman yields back the balance of his time. Does the gentleman from California insist on the enforcement of his point of order?

Rep. Denham: Yes, sir.

Chairman Lucas: Does the gentleman wish to explain his point of order?

Rep. Denham: Very simply, I raised a point of order because this amendment has to do with interstate commerce. Just by the very title of the bill, "Protect Interstate Commerce Act," it should fall under the jurisdiction of Energy & Commerce.

Chairman Lucas: Does anyone else wish to address this point of order? The gentleman from Iowa is recognized.

Rep. King: This topic has been thoroughly vetted with our parliamentarian over the last few weeks or months. My amendment goes to a title that is our bill. It goes to the Section 207 of the Agriculture Marketing Act of 1946, 7 USC 1626, well within the jurisdiction of this committee specifically. And I believe if the Commerce Committee were to take this component up, the chairman of this committee would object to such a jurisdictional claim. And so I think it's well vetted and I believe the gentleman's objection is not well founded, and I yield back.

Chairman Lucas: Does anyone else wish to offer—

Male: Mr. Chairman?

Chairman Lucas: The gentleman from California.

Rep. Costa: Yes, I move to strike the last word to support the gentleman from California's point of order. I don't know how many members of this committee are constitutional lawyers, but the problem that I see, notwithstanding the intent—and I respect the author of this bill's intent because I think he clearly talked about problems that exist with differences in state law—but there's another principle at stake here.

For my Republican colleagues here who felt the efforts of President Reagan to embrace federalism, federalism is a whole notion that the states created this country, created the constitution and the bill of rights, but that there are rights in states to propagate state law on a host of issues. That's what federalism is all about. Now, there's always a tug of war that exists here in Congress, in the nine years I've been here, between what's the appropriate role of states, what's the appropriate role of local government versus the constitution as the supreme law of the land.

I'm kind of one of these country lawyers, which is no lawyer at all, but I will tell you that I think this is a very slippery slope. We have certain states, for an example, that follow a national pesticide and herbicide standard. We have other states that have their own pesticide and herbicide standards for registration purposes. Are we to say that if, in fact, we in Congress know better than this state or that state, to allow them to propagate their own law as it relates to herbicides and pesticides? I mean, and it goes much further.

There are over 150 laws in various states that we all represent that would be superseded by this amendment, were it to become law. And I think instead of solving the problems that the author would like to solve—actually, I'm sympathetic to some of the issues that he's raised—but who am I to say what's the appropriate standard for Wisconsin or for any other state in this nation as it comes to managing their agricultural industry in a way that they think it makes it most competitive and makes their agriculture most effective in their state?

And so I think, while I am sympathetic to some of the issues that the author has raised in this amendment, I think it tramples on federalism and the whole notion that states

have the ability to regulate their own agricultural industry, whether we may like or dislike some of the laws that are perpetrated, and whether or not it's by initiative, as in some cases, or by a state legislature signed by a governor. So with that, I support the motion by the gentleman from California and I yield back the balance of my time.

Chairman Lucas: The gentleman yields back the balance of his time. Does anyone else wish to be heard on this point of order? The gentleman from Virginia, Mr. Goodlatte, is recognized.

Rep. Bob Goodlatte: Thank you, Mr. Chairman. Mr. Chairman, this point of order is not well founded. Virtually everything in this farm bill relates to interstate commerce as it pertains to agriculture, and therefore the fact that interstate commerce is referenced in the amendment is not, by itself, sufficient to deny this committee jurisdiction over what is clearly the jurisdiction of the committee.

We'll talk in a moment, I suspect, about the underlying substance of this and what the motivation is behind it and behind opposing it. But I will assure the members of the committee that both sides of this argument are very much motivated by issues that are clearly the jurisdiction of this committee, and I would urge the chairman to find that the amendment is in order.

Chairman Lucas: The gentleman yields back. The gentleman from Oregon wishes to be heard on this point of order.

Rep. Kurt Schrader: Mr. Chairman, I appreciate that. I appreciate the comments from the gentleman from Virginia, but he couldn't be more wrong. As many of us who served on this committee last time remember, if I had offered my point of order a little bit earlier in that debate, we would not be facing this issue today because it is clearly, clearly the province of Energy & Commerce, absolutely and incontrovertibly. Let's be honest, folks. I mean, we can, you know, dress a pig up any way you want it to look something different, but if it's a pig, it's a pig at the end of the day.

This is clearly interstate commerce. It doesn't get any clearer than that. And I'm prepared to go to the ranking member and the chairman of the Energy & Commerce Committee and ask them their opinion. They'll tell us very clearly. Forestry products are covered under this, at the end of the day, the way this thing is being worded. And that's not necessarily the jurisdiction of our committee. That is also the jurisdiction of Natural Resources. I think it's very clear, for those of us interested in states' rights, let's think about this for a minute.

What we're declaring here, if we adopt the gentleman from Iowa's opinion and amendment, is that another state from outside of your jurisdiction, your home state, can basically decide to lowball you, do all sorts of hybrid practices that can harm your community economically, maybe public health-wise, and you have no recourse. You have no recourse. This is the reason our great forefathers set up the constitution, so that these sorts of practices could not continue, there would not be this internal warfare among the states on different practices, different regulations regarding interstate commerce.

I think it's very, very clear that we've got a reverse situation. We're actually restricting our states' rights ability to regulate their own commerce in their own boundaries. The courts have consistently stated that as long as a regulation within a state is fairly applied to everybody, whether they're in state or out of state—

Rep. Goodlatte: Mr. Chairman, a point of order. The gentleman is arguing the underlying amendment and not the point of order.

Rep. Schrader: No, I'm talking about what the courts have talked about, and they're talking about if the state is able to set up a situation where they treat everyone fairly around the country, that is permissible by law, and that will be upheld. And if this goes through, the farm bill is going to be subject to other jurisdictional disputes and it's going to be subject to court interpretation, and we'll lose a great piece of work. And I yield back.

Chairman Lucas: The chair is prepared to rule, having consulted with the parliamentarians. A good case is made that it involves our jurisdiction on the basis that it applies, at a minimum, state laws that duplicate various federal laws within our committee's jurisdiction. Therefore, the chair rules that the point of order is not in order and that the gentleman's amendment is in order. The gentleman may proceed. The gentleman has explained his amendment. The floor is now open for anyone seeking recognition to strike the last word on the amendment. The gentleman from California seeks recognition to strike the last word. The gentleman is recognized for five minutes.

Rep. Denham: Mr. Chairman, I oppose the King amendment because the amendment takes away important authorities from states and gives them exclusively to the federal government. The 10th Amendment of the U.S. Constitution firmly establishes states' rights, and many states' rights represented by members of the House Agriculture Committee have used their state sovereignty to enact laws that protect their citizens from invasive pests, livestock diseases, maintain quality standards for dairy products and ensure food safety and unadulterated seed products.

While this list is by no means exhaustive, even a cursory look at state laws regulating agriculture reveals that laws in Illinois, Indiana, Iowa, Kentucky, Maine, Michigan, Minnesota, New York, Ohio, Pennsylvania, Vermont, Wisconsin and California will be potentially nullified by the King amendment.

The King amendment, though not intending to, will target these states' laws, intended to protect vital economic safety and agriculture interests within their state boundaries. The King amendment does not offer a respectful adherence to the 10th Amendment, but is instead a dangerous federal power grab creating a prohibitively burdensome government requirement for federal action on important local and regional issues that should be handled by state laws.

I know that Mr. King has done his due diligence to try to narrowly tailor this amendment to target my state, but his efforts have left the California Farm Bureau and different agriculture industries uncertain of their future and the validity of their

state laws if the amendment were to pass. I strongly oppose the amendment for its federal overreach which would nullify important state laws protecting public health and preventing pest disease.

You know, I think about this as a former state senator. A lot of laws that I didn't like that were passed, but I still respected the 10th Amendment, as many of you who served in your statehouses before you came here. After looking at some of the bills that this would affect, we pulled up a list of over 150 laws in each of your different states. Now, I understand he doesn't like the foie gras bill in California passed several years ago, or the people of California deciding to pass Prop 2, chicken cage sizes, but his amendment also addresses maple syrup in New Hampshire, Vidalia onions in Georgia, labeling requirements in Alabama, Kentucky, and Missouri, horse meat in a whole bunch of different states.

California, Hawaii, Illinois, Oregon, Washington, shark fin ban; Kansas, Louisiana, Ohio, raw milk. Kosher products in Minnesota, timber in New York, importing bees across state lines. I've got an exhaustive list here. Before we open this and trample all over the 10th Amendment, we ought to think about what this does to every single one of our states and the bills that have been passed over the last several decades. I yield back.

Chairman Lucas: The gentleman yields back. Does anyone else seek recognition on the King amendment? The gentleman from California, Mr. Costa, moves to strike the last word and is recognized for five minutes.

Rep. Costa: Thank you again very much, Mr. Chairman. This is an important issue. It was an important issue the last time we dealt with it. And I know for the new members here, you want to make the best foot you can, and you're conflicted between the interstate commerce clause and the issue of federalism, and whether or not—what rights our states have to enact laws.

Notwithstanding the author's intent, Congress does not have the authority to regulate interstate commerce in a way that strips states, I believe, of their sovereign state authority, their traditional authority to regulate, to protect health, safety, morals within their borders. This amendment, let's be clear, has nothing to do with interstate commerce and everything to do with in state commerce. In effect, it's a federal takeover of longstanding states' internal legislative authority.

Probably half of us have come from state legislatures. Remember when we didn't like the Congress passing laws that superseded our ability to do what we thought was best for our folks within our states? This has that same effect. It's a federal takeover which not only violates the 10th Amendment, but deprives the states of their rights to a federal, or what one would call a republican form of government. For my Republican friends, I think this is very, very problematic.

Again, we all have laws that have been enacted in our states. California, I mean, I think both Mr. Denham and I opposed Proposition 2. I called it condominium for chickens. But the fact is the voters passed it on an initiative. And you can go down

that list that Congressman Denham has offered and look at your own respective states and see how your industries in those states might be impacted and how they might feel if you go home this weekend and tell them guess what we just did? That law that you like, we just determined that we don't think it's applicable anymore.

So I think that's what's at risk here, and that's why notwithstanding the intent, I think this does trample the 10th Amendment and I would urge a no vote on this amendment. I yield back the balance of my time.

Chairman Lucas: The gentleman yields back the balance of time. The gentleman from Virginia seeks to strike the last word and is recognized for five minutes.

Rep. Goodlatte: Thank you, Mr. Chairman. Mr. Chairman, this amendment has been mischaracterized in terms of its intent. What this amendment does is it says that no state can ban products produced in other states based upon a standard they have imposed in their state, based upon the clear definitions in the amendment.

And let's be very clear about what we're talking about here. This is a protectionist effort, and this has gone on for people from California for a long time because California seems to want to get into regulating agriculture in ways that most of the rest of the country doesn't want to do. And then they view it as a protectionist measure, because once it's done and the farmers in agriculture in California have to comply with it, they then try to exclude products from the rest of the country coming into California.

This is not a states' rights issue. This is very clearly an interstate commerce issue. And for 200 years, the United States Supreme Court has ruled that states cannot pass protectionist measures without response by the Congress, if the Congress chooses to make it. And this is simply a decision by the Congress, if it is adopted by the committee, that we don't want to say that states can exclude products out of their marketplace by passing regulations that do not comply with what other states do.

We have been successful in this country's economy and its growth for many, many, many decades because we have open commerce, and when we start recognizing and allowing states to pass regulations and say that products made in others states—and the state of California has an absolute right, and the people of California have an absolute right to tell their producers in California how they're going to raise agricultural products.

And they can do it, as the gentleman from California, Mr. Costa, would agree with me, in very unsound ways, as I think they have done in a few instances. But that does not mean that they can then, without question, without challenge by the Congress, say that no other product from any other state can come in unless it complies with those regulations. And if we go down this path, we are going to Balkanize the free enterprise system and open markets in this country.

And I urge my colleagues to support this amendment and oppose the effort of some states, particularly California—and we've seen this from California before—to try to—and I don't blame the members from California trying to stand up for their state,

but I do blame the state of California for always trying, with a big market like that, to say do it our way or stay out of our state. If every state were to do that, we would not have the kind of success in agriculture and other sectors of our economy.

But the gentleman's amendment is narrowly crafted to cover agricultural issues, and therefore I think it is very pertinent for this committee to address it, but also very important for the protection of American agriculture and free enterprise to support this amendment and halt the effort of people to try to regulate the entire economy by excluding products from elsewhere in the country from their state's market. I would be happy to yield to the gentleman from Iowa.

Rep. King: I thank the gentleman for yielding. And as I listen to this debate and I hear of 150 different ways that this amendment might affect other state legislation, I recall the operative word when the gentleman from California delivered that statement, "potentially" nullified, potentially. And if they were truly and really nullified, some of that would have gotten to me by now, as thoroughly as we have vetted this. And I will say to this committee that if there's anything that emerges that runs contrary to the intent of this legislation, which I think we all very well understand in this committee, I'm very happy to work with that. I want this to be as good as it can be, as effective as it can be.

And I'm sorry that California is as far down the line as you are, particularly with your cage size regulations that are there. That's unfortunate. But the rest of this nation cannot go down that same path. And I represent a state that has 52 million layers in it. The second-highest state is Ohio, with 26 million layers. And my congressional district, if it weren't for the state of Iowa, and if my district were a state, it would be the No. 1 egg district in America—or egg state in America. It is the No. 1 egg district in America.

But that wasn't my motivation. My motivation came before I realized how deep this went, because I wanted to protect the constitution and the commerce clause in the constitution, and began to look at the pieces of the commodities and the means by which a state was regulating. Now, I'm fine if California wants to say if you're going to bring an egg in here, it has to be egg shaped, and if you want to bring some beef in here, it needs to be produced with the idea of the regulations of the USDA in mind

But I'm not fine if California is going to do trade protection. And it isn't just California. It's other states. It's a patchwork quilt of these issues, and we need to draw the line now, while we still can. I yield back to the gentleman.

Chairman Lucas: The gentleman yields back. Anyone else seeking recognition? The gentleman from California, Mr. Garamendi, moves to strike the last word and be recognized for five minutes.

Rep. Garamendi: Thank you, Mr. Chairman. This is far more than a California issue. The language of the amendment really ought to be read by all of us and taken into consideration. I understand why some are upset with California or various other

laws, but the way this is written—and I’m not going to get into the commerce clause here, but rather into the way it is written.

And it basically says that “an agricultural product sold or offered for sale in interstate commerce, if such production or manufacture occurs in another state, and the standard or conditions is in addition to the standards and conditions applicable to such product pursuant to federal law and the state and locality.”

So if a locality, a county, has a certain law in place that allows for an agricultural product to be manufactured in an unsafe way, and doesn’t obviate a federal law, then that product can be sold in every state. It’s a very, very broadly written exemption from a state trying to protect not just the agriculture in that state, but also the people of that state from a badly produced or inappropriately produced or unsafely produced agricultural product. And it really gives the standard to the very lowest of all standards within the United States.

Listen, I understand this whole California thing. Like Mr. Costa, I opposed Proposition 2. But it is there. But now this has been taken far beyond dealing with eggs. Far, far beyond dealing with—it is all agricultural products. Mr. Schrader mentioned trees. Yes. Forest products. And Mr. Denham mentioned 150 different laws. That’s probably far more than 150 different agricultural products.

This may have been narrowed to deal with the commerce clause and the jurisdictional issue, but it certainly wasn’t narrowed in dealing with agricultural products manufactured somewhere in the United States that at the lowest denominator of safety or any other standard could therefore be sold in any part of the United States. I just don’t think we ought to go that way. Not just to protect the egg industry, which is an argument worth having, but this is really, really broad and we ought not be going in this direction. So I yield back, Mr. Chairman.

Chairman Lucas: The gentleman yields back. The gentleman from Wisconsin is next in the [quoit]. Mr. Ribble, I assume, seeks to strike the last word, to be recognized for five minutes.

Rep. Reid Ribble. Mr. Chairman, I do request to strike the last word.

Chairman Lucas: The gentleman is recognized.

Rep. Ribble: You know, I think it might be best for us, if we’re going to try to make a states’ rights argument based on the 10th Amendment, it might be worthy to actually refer to the 10th Amendment to see what it says and what it actually does. It says, and I quote, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the states are reserved to the states respectively or the people.” So then you have to go back and say, well, then, is there a power that the Congress has that’s been delegated within the Constitution.

Article I, Section 8 says, “The Congress shall have the power to regulate commerce with foreign nations and among the several states, and with the Indian tribes.” The 10th Amendment of the Constitution does not protect the state of California or

Wisconsin from this because it is delegated to the Congress by the Constitution. The 10th Amendment only covers powers that are not delegated. So this is delegated. Or if you went and read the next line of Article I, Section 8, it says, "To establish a uniform rule of naturalization."

Under Mr. Denham's argument, then if California doesn't want to allow Filipinos or German immigrants into their state, they could, as if we don't have a national policy on commerce or immigration. This is what the Constitution does. And the Constitution was written by the states collectively for this very purpose. And so I would encourage you to support the amendment. It's the right thing to do. And I yield back.

Chairman Lucas: ...yields back. I believe I have one additional request to strike the last word from the gentleman from Tennessee. Mr. Fincher.

Rep. Fincher: I do.

Chairman Lucas: Recognized for five minutes.

Rep. Fincher: I want to yield to my good friend from California, Mr. Denham, as much time as you may consume.

Rep. Denham: Thank you, Mr. Fincher. Let me first address the 10th Amendment issue. I think that James Madison was very clear, if we want to dive deep into the Constitution. I think the constitutionality of this is very clear, reading through. In the '70s the court reasoned that "if Congress may withdraw from the states the authority to make certain decisions, there would be little left of the states' separate and independent existence or a 10th Amendment at all." So really, the question is, where do you draw the line?

Now, Mr. King has already talked about he doesn't like what the voters did in California. I get that. Several members of this committee were opposed to that bill, but the voters of California spoke on the issue. Now, he doesn't like the gestation crates in Arizona, either. Look, I get that, too. And he probably doesn't like the ones in Florida. Those will be next. Or you can work out a separate deal with them on it. Gestation crates, that's an issue in Florida, Colorado. A number of different states have already passed that.

But what about everybody else? What if he doesn't like maple syrup? Are you guys going to work out a deal with him? Kosher food? You better talk to Mr. King, set up an appointment and see if you can work out something for your state on kosher foods. I mean, the list goes on and on. Timber, importing bees, raw milk. A whole bunch of states have issues with raw milk. If you left it up to Mr. King, he'll work it out with you.

Look, I've been doing this for a while. I believe you vote on it. If you don't like it, you put it out there, you vote on it. You don't work a deal later, after midnight, as this clock continues to wind down, or later in the day because, the next day, because you wanted to work a special deal for your state. Stand on the Constitution, stand on

states' rights issues, and if you don't like what's happening in your state, go back and fight in your state. But to undermine all of these various laws in all of these various states and hope that you can make a deal with one member of a committee is not the way that this body was set up to exist. I yield back.

Chairman Lucas: The gentleman yields back.

Male: Mr. Chairman?

Chairman Lucas: I believe, actually, the gentleman from Minnesota had the first recognition to strike the last word and...

Male: I do, and I'd like to yield my time to my friend and neighbor in Iowa, Mr. King.

Rep. King: I thank my friend and neighbor from Minnesota for yielding time to me. And first I would say that this isn't about what I do or don't like. This is about the Constitution, and it is about regulating interstate commerce by state and by state referendum. And when I hear the allegation that this is a late deal coming in tonight, I said we worked on this for two and a half years. And every organization that I can find out there, it's either we found them or they found us that I know of.

And Mr. Denham comes at the last minute with a list of 150 that no one got a chance to vet. And I notice that his amendment, which was a second degree amendment, was filed at 5:54 p.m. last night, just in time before the 6:00 deadline. And so this isn't about working a deal with me. This is about doing the right thing, being consistent with the Constitution. The gentleman from Wisconsin gave the best argument. I wish I'd made that argument.

But we must do this. We take an oath to uphold the Constitution. And if there's a vote against this amendment, it at least implies, if it doesn't say, that you don't respect this Constitution. It's very, very clear. This is interstate commerce. It is the jurisdiction of this committee. And it fits within the agriculture products. It's narrowly defined within the jurisdiction of this committee, and it's designed so that states can regulate themselves.

If California wants to regulate any kind of ag product, go ahead and do that. There's nothing that prohibits that whatsoever. We encourage all the states, if you want to make those decisions, do that. That's part of this giant laboratory that our founding fathers envisioned. But they clearly understood that we would have trade protectionism emerge within the states. That's why the enumerated power of Article I, Section, 8, Clause 3 exists.

Now, if you were going to apply this same kind of thing to foreign trade, would you let a foreign country write the same kind of regulations and then say, for example—I mean, that's why we have trade negotiations under NAFTA. It's a similar kind of a thing. But if we can't have free trade between the 50 states, how do we negotiate free trade between our neighbors north and south of us? This is a solid underlying principles of free trade within the states, interstate commerce that is regulated by this

Congress. There is no jurisdiction that supersedes this House Ag Committee at this time.

And the message that could come out of here tonight would be that somehow we're going to encourage the states to regulate the means of production and decide the size of cage sizes or no veal stalls, or what you feed your ducks or your geese, and when you feed them and how do you that, and 50 states could have 50 different combinations of those kind of regulations, and Iowa can start to regulate against the other states, too? And we're sitting here with...we need to be working together so that there's an open flow of commerce. And overregulation by a single state brings this about.

This isn't this Congress imposing themselves upon decisions made in places like Oregon or Arizona or Colorado or California. This is this Congress finally fixing a bad situation that grew out of some people that proffered a referendum in California that I think a lot of people regret. And everybody I've heard speak from California has opposed that Proposition No. 2. I would yield back to the gentleman from Minnesota, especially if he could yield to my friend from Virginia.

Rep. Goodlatte: I thank the gentleman from Minnesota for yielding. I just want to reiterate the expressions here, both saying that they opposed Proposition 2, but they also oppose the King amendment. There's nothing in the King amendment that tells the state of California that they can't impose these restrictions on farmers in the state of California. I think a bad decision, but nonetheless, they did it.

But if you want to stop the Balkanization of agricultural production in America, you've got to support this amendment and send the message to California that if they're going to impose regulations like that, they better take into account that they can't impose them on the entire country and exclude agricultural production in the rest of the country from the largest market in the country. Nor could other states impose similar burdens on California, the largest agricultural producing state by far. And if we promote this type of thing in California, we're going to promote it everywhere else, and people are going to try to protect markets all across America.

It is a mistake what was done in California. The gentlemen from California have admitted it was a mistake. Let's not honor that mistake by defeating this amendment. Let's pass an amendment that says we have one market in this country and that interstate commerce is regulated by the United States government unless we choose to allow a state to impose something based upon certain police powers which, again, are contemplated by the amendment by the gentleman from Iowa. I urge my colleagues to support this amendment. It's a very good one and it will support free enterprise, and it will support agricultural production and growth of agriculture in our country.

Chairman Lucas: The gentleman's time has expired. The chair recognizes himself to strike the last word and be recognized for five minutes. My friends, the boxers have been in the ring several times. They've scored several rounds on each other. It's time

for you, the referees, to score the outcome of this match. If there are no other requests for recognition, we should proceed to vote.

Male: Mr. Chair. I move to amend the King Amendment, Item No. 101.

Rep. Austin Scott: Mr. Chairman, can I ask a question, please, before we—

Chairman Lucas: The gentleman has offered an amendment. The gentleman may make an inquiry.

Rep. Scott: Mr. Chairman, my inquiry is on the definition of agricultural products. And I guess the word manufacturing is one of the things that leads to my question. A cigarette, tobacco is an agricultural product. A cigarette is a manufactured agricultural product. Beer. What goes into beer is an agricultural product, the manufacturing or processing. So my question is, are those two products included in this? Because many states have levels of alcohol content in beer that they do not allow the sale of that particular beer if it's above that alcohol content. So my question is would alcohol and tobacco products be included in this?

Male: Would the gentleman yield?

Rep. Goodlatte: I would assume that with regard to alcohol, because there's an amendment to the United States Constitution that specifically gives the states the authority to regulate that, that the state can set varying levels of alcohol content. With regard to tobacco, there is no such amendment in the United States Constitution. Therefore I would assume that this amendment would apply to tobacco products.

Chairman Lucas: [Reference] in response to the gentleman's inquiry about alcohol. Why a Southern Baptist would know this, I do not have any clue, but in the spring of 1933, Congress defined three-two beer as non-intoxicating and gave the states the ability, therefore, to regulate it in their states. When Prohibition was repealed that December, they went further to give states jurisdiction over these issues and control. That's why we have all those unique beer laws around the country. Not that I know anything about that.

That said, since the gentleman's question is answered as best it can be answered, anything further would appear to be a debating point. The gentleman from California has an amendment that he has asked to be considered an amendment to the amendment. I believe that's the right phrase. And that's within the rules, I believe, a second degree amendment.

Therefore, Amendment No. 101, will the clerk distribute Amendment No. 101? And the chair asks unanimous consent that the reading of the amendment be waived, that as the amendment is being distributed the gentleman very slowly explain his amendment so we have time to understand the amendment. The gentleman may proceed for five minutes.

Male: Thank you, Mr. Chairman.

Male: May I have an inquiry?

Chairman Lucas: The gentleman makes an inquiry.

Male: And I'm asking the counsel this. Would the gentleman from California not have to offer that amendment when he first sought recognition on this to make a secondary amendment? Can he do it at this point now, parliamentarily?

Male: Might I answer, Mr. Chair?

Chairman Lucas: You might answer, counsel.

Male: Congressman, you are correct. It is only timely to offer a second degree amendment before the offerer of the first amendment describes his amendment. But I believe the chairman has allowed the secondary amendment to be considered.

Male: I think he has recognized him. He hasn't allowed it yet. I would challenge that as being out of order, Mr. Chairman.

Male: Mr. Chairman, I would only point out that other committees have allowed this many times. I realize this is not another committee, but as long as there was not a vote taken on the prior amendment, it is still in order.

Chairman Lucas: I would note to all parties involved in this effort, at some point we will get to a vote, and the will of this body will be expressed in that vote. Whether it is a vote on the secondary amendment to the primary amendment, but there will be a series of votes. And I would encourage my colleagues, at 10:30 at night—and I'll stay here with you till sunup tomorrow if we want to have fun—but that we proceed in an expeditious fashion to conclude our business in an orderly fashion.

I have acknowledged the gentleman to offer his amendment. Therefore the chair would rule that that move stands. The gentleman now should proceed in an orderly fashion to explain his amendment so that we may move forward to consider it.

Rep. Denham: Thank you, Mr. Chairman. I plan to proceed very orderly here. Let me just briefly explain. My amendment will protect the rights of states previously discussed and have agricultural product standards. The federal government should not overstep and declare the state protections to be illegal. My amendment exempts these states from the King amendment, allowing them to maintain their state laws protecting food safety, invasive pest prevention, fraud and livestock disease and quality standards.

The King amendment does not, in fact, provide certainty that state laws and agriculture industries will not fall under its broad scope. The King amendment has a number of ramifications beyond its intended scope. Here are just a few of the identified examples of state-based protections that may be affected in this amendment. In order to protect livestock from brucellosis, TB and other diseases, Iowa, Minnesota, Ohio and other states have imposed unique inspection permit testing and vaccination requirements before allowing livestock to enter their state.

The language could prohibit states from requiring additional standards without clearly authority from the federal government. To ensure the nutrition content of low fat and fat-free milk is high in protein, milk sold in California must meet higher protein levels than the federal standards. The federal standards do not compensate for lower fat content by requiring the addition of nonfat milk solids when fat is reduced or removed in low fat and fat-free milks. Milk sold in the state is higher in calcium per serving than milk sold in other states.

The King amendment would leave California processors required to manufacture to a higher standard, but milk processed elsewhere and sold in the state would only have to meet the federal standard. That would create confusion for consumers, lost jobs, as the state milk produced at a cheaper cost would displace local bottling plants. I can go on and on. There's over 150 of these examples in there.

Male: Do you have a copy of the amendment?

Rep. Denham: There should have been a copy passed out.

Chairman Lucas: Should be at your desk.

Rep. Denham: This is a very clear states' rights issue. Look, there are a lot of laws I don't like out there. There are a lot of laws that I voted against. As a voter, there are propositions that I've voted against. But that does not give this committee the right to trample all over those state laws when they feel that it's the right time, regardless of which party is in control. This is a very slippery slope that if we decide to pick and choose which laws that we're going to uphold the states are already passed, it puts at, I think, at a very damaging time as it pertains to our Constitution. And I yield back.

Male: Mr. Chairman.

Chairman Lucas: The gentleman yields back. The gentleman from Virginia is recognized to strike the last word and for five minutes.

Mr. Goodlatte: Thank you, Mr. Chairman. This is...if you're going to look at it as a states' rights issue, let's look at it from the right of farmers in the 49 other states that are producing agricultural products lawfully under federal law, and presumably their own state laws, because this amendment by Mr. King does absolutely nothing, absolutely nothing to prohibit the people in California from imposing this standard on agricultural production in California. But it says they can't impose that standard on other states.

Mr. King's amendment protects interstate commerce, protects the concept of one market, and protects the rights of farmers in the 49 other states with regard to laws in California. What the amendment, the secondary amendment offered by the gentleman from California does is gut the gentleman from Iowa's amendment, and it has exactly the same effect as if you were to defeat the gentleman from Iowa's amendment. It's certainly not my purpose to do that.

I believe that we're going to promote agricultural production in this country if we support this amendment, and therefore I oppose the Denham secondary amendment and again support the King amendment. Yield back.

Chairman Lucas: Going back and forth, the chair recognizes the ranking member for five minutes.

Rep. Peterson: Mr. Chairman, you know, I have not participated in this debate, and while my colleagues are very eloquent, what I've watched on television, I've heard these arguments five times from everybody, and I don't know that we need to hear it again. It's 10:30 at night. Let's vote. I've heard enough.

Chairman Lucas: The gentleman makes a very good point. Seeing no other request for recognition, we'll proceed to vote on the secondary amendment by Mr. Denham. All those in favor of Mr. Denham's amendment to the King amendment, that is, in favor of Mr. Denham's amendment, signify by saying aye.

Group: Aye.

Chairman Lucas: All those opposed.

Group: No.

Chairman Lucas: The nos have it. The amendment is defeated. We now return... The gentleman is well within his rights for a roll call vote. The clerk will call the roll on the Denham amendment to the King amendment. This is the Denham amendment.

Clerk: Mr. Goodlatte.

Rep. Goodlatte: No.

Clerk: Mr. Goodlatte no. Mr. King.

Rep. King: No.

Clerk: Mr. King no. Mr. Neugebauer.

Rep. Neugebauer: No.

Clerk: Mr. Neugebauer no. Mr. Rogers.

Rep. Rogers: No.

Clerk: Mr. Rogers no. Mr. Conaway.

Rep. Conaway: No.

Clerk: Mr. Conaway no. Mr. Thompson.

Rep. Thompson: *[No response.]*

Clerk: Mr. Gibbs.

Rep. Gibbs: No.

Clerk: Mr. Gibbs no. Mr. Austin Scott.

Rep. Austin Scott: No.

Clerk: Mr. Austin Scott no. Mr. Tipton.

Rep. Tipton: No.

Clerk: Mr. Tipton no. Mr. Crawford.

Rep. Crawford: No.

Clerk: M. Crawford no. Ms. Roby.

Rep. Roby: No.

Clerk: Ms. Roby no. Mr. DesJalais.

Rep. DesJalais: No.

Clerk: Mr. DesJalais no. Mr. Gibson.

Rep. Gibson: No.

Clerk: Mr. Gibson no. Ms. Hartzler.

Rep. Hartzler: No.

Clerk: Mr. Hartzler no. Mr. Ribble.

Rep. Ribble: No.

Clerk: Mr. Ribble no. Ms. Noem.

Rep. Noem: No.

Clerk: Ms. Noem no. Mr. Benishek.

Rep. Benishek: Yes.

Clerk: Mr. Benishek yes. Mr. Denham.

Rep. Denham: Yes.

Clerk: Mr. Denham yes. Mr. Fincher.

Rep. Fincher: No.

Clerk: Mr. Fincher no. Mr. LaMalfa.

Rep. LaMalfa: [*Thumb down.*]

Clerk: Mr. LaMalfa no. Mr. Hudson.

Rep. Hudson: No.

Clerk: Mr. Hudson no. Mr. Davis.

Rep. Davis: No.

Clerk: Mr. Davis no. Mr. Collins.

Rep. Collins: No.

Clerk: Mr. Collins no. Mr. Yoho.

Rep. Yoho: No.

Clerk: Mr. Yoho no. Mr. Peterson.

Rep. Peterson: No.

Clerk: Mr. Peterson no. Mr. McIntyre.

Rep. McIntyre: No.

Clerk: Mr. McIntyre no. Mr. David Scott.

Rep. David Scott: No.

Clerk: Mr. David Scott no. Mr. Costa.

Rep. Costa: Aye, for my Californian.

Clerk: Mr. Costa aye. Mr. Walz.

Rep. Walz: No.

Clerk: Mr. Walz no. Mr. Schrader.

Rep. Schrader: Aye.

Clerk: Mr. Schrader aye. Ms. Fudge.

Rep. Fudge: Aye.

Clerk: Ms. Fudge aye. Mr. McGovern.

Rep. McGovern: Aye.

Clerk: Mr. McGovern aye. Ms. DelBene.

Rep. DelBene: Aye.

Clerk: Ms. DelBene aye. Ms. Negrete McLeod.

Rep. Negrete McLeod: Aye.

Clerk: Ms. Negrete McLeod aye. Mr. Vela.

Rep. Vela: No.

Clerk: Mr. Vela no. Ms. Lujan Grisham.

Rep. Lujan Grisham: No.

Clerk: Ms. Lujan Grisham no. Ms. Kuster.

Rep. Kuster: No.

Clerk: Ms. Kuster no. Mr. Nolan.

Rep. Nolan: Aye.

Clerk: Mr. Nolan aye. Mr. Gallego.

Rep. Gallego: No.

Clerk: Mr. Gallego no. Mr. Enyart.

Rep. Enyart: No.

Clerk: Mr. Enyart no. Mr. Vargas.

Rep. Vargas: Yes.

Clerk: M. Vargas yes. Ms. Bustos.

Rep. Bustos: No.

Clerk: Ms. Bustos no. Mr. Maloney.

Rep. Maloney: Yes.

Clerk: Mr. Maloney yes. Mr. Courtney.

Rep. Courtney: Yes.

Clerk: Mr. Courtney yes. Mr. Garamendi.

Rep. Garamendi: Yes.

Clerk: Mr. Garamendi yes. Mr. Thompson.

Rep. Thompson: No.

Clerk: Mr. Thompson no. Mr. Chairman.

Chairman Lucas: No.

Clerk: Mr. Chairman no. The vote is 13 yeas to 33 nays. Thank you, Mr. Chairman.

Chairman Lucas: The amendment is defeated. We now proceed to vote on the King amendment, No. 71. All those in favor of the King amendment, No. 71, signify by saying aye.

Group: Aye.

Chairman Lucas: All those opposed.

Group: No.

Chairman Lucas: The ayes appear to have it. The ayes appear to have it. The ayes do, indeed, have it. The King amendment, No. 71, is adopted.

Male: Mr. Chairman. Would the chair entertain a unanimous consent to limit debate by each person to two minutes?

Chairman Lucas: The chair would note he's having so much fun here, but in the spirit of comedy, since the gentleman's asked, is there objection...

[End of recording.]