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STATE QUESTION 777: CONSTITUTIONAL LIMITS ON THE REGULATION OF AGRICULTURE

The Gist

SQ 777 is a constitutional amendment that would give Oklahoma residents the right to engage in farming and ranching practices and employ agricultural technology. The amendment bans any new law regulating or prohibiting an agricultural practice unless it can be shown to have a “compelling state interest.” That means any new agricultural regulations would have to pass strict scrutiny, the legal standard used for laws that deprive people of fundamental rights like free speech, gun ownership, or religious freedom.



Background Information

SQ 777 was placed on the ballot by the Oklahoma Legislature. The measure is modeled after an initiative that was approved by voters in North Dakota in 2012 and Missouri in 2014. The Farm Bureau in these states and in Oklahoma have been major backers of the initiatives.

SQ 777 has been called the “Right to Farm Amendment” by its supporters and “Right to Harm” by opponents.

By requiring strict scrutiny of any new laws affecting agriculture, the amendments would make it much more likely that these laws can be struck down in court. A UCLA study found that state laws challenged under strict scrutiny in federal courts are struck down 77 percent of the time and local ordinances are struck down 85 percent of the time.

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STATE QUESTION 777 (CONTINUED)

SQ 777 has been supported primarily by agricultural trade groups such as the Oklahoma Farm Bureau, the Oklahoma Cattlemen's Association, and the Oklahoma Pork Council. Opponents of the measure include the Oklahoma Municipal League representing mayors and city councils, the Inter-Tribal Council of the Five Civilized Tribes, the Humane Society of the United States, and the Oklahoma Food Cooperative representing small farmers.

Supporters Say...

- SQ 777 will give farmers another “tool in their toolbox” to defend themselves from unwarranted laws and regulations, including ballot initiatives funded by deep-pocketed animal-rights groups.
- By guarding against overly restrictive laws and regulations, SQ 777 will allow consumers to make the choice about what farming and ranching practices they want to support.

Opponents Say...

- SQ 777 creates an advantage for large, industrialized factory farms by preventing new state laws to protect small farmers and natural resources.
- SQ 777 undermines democracy by preventing Oklahoma's elected leaders from establishing reasonable standards for food production, environmental protection, and animal welfare.
- SQ 777 would make it much harder to protect Oklahoma's drinking water from pollution by animal waste disposal.

Ballot Language

This measure adds Section 38 to Article II of the Oklahoma Constitution. The new section creates state constitutional rights. It creates the following guaranteed rights to engage in farming and ranching: • The right to make use of agricultural technology, • The right to make use of livestock procedures, and • The right to make use of ranching practices. These constitutional rights receive extra protection under this measure that not all constitutional rights receive. This extra protection is a limit on lawmakers' ability to interfere with the exercise of these rights. Under this extra protection, no law can interfere with these rights, unless the law is justified by a compelling state interest—a clearly identified state interest of the highest order. Additionally, the law must be necessary to serve that compelling state interest. The measure—and the protections identified above—do not apply to and do not impact state laws related to: • Trespass, • Eminent domain, • Easements, • Right of way or other property rights, and • Any state statutes and political subdivision ordinances enacted before December 31, 2014.

To learn more, go to <http://bit.ly/oksq2016>.