

North Carolina's 'Ag-Gag Law' Declared Unconstitutional

In 2016, eight American organisations, including the Animal Legal Defense Fund (ALDF) and People for the Ethical Treatment of Animals (PETA), challenged North Carolina's controversial 'ag-gag law' as a major violation of free speech in the United States. In June of 2020, after their case was first dismissed and reversed by a district and appeals court, and after gaining the support of a variety of news organizations, the environmental groups won the case in federal court. The presiding judge, Thomas D. Schroeder, found much of North Carolina's ag-gag law to be unconstitutional, exceeding the limits of free speech protected by the First Amendment.

In an effort to protect factory farms and industrial agriculture from the public eye, seven American states (in consecutive order: Kansas, Iowa, Utah, Missouri, Idaho, Wyoming, and North Carolina) have passed a variety of ag-gag laws over the past 30 years, although five of these laws have subsequently been declared unconstitutional. As Alicia Prygoski from Michigan State University College of Law describes, ag-gag laws exist in three categories, all of which aim to punish whistleblowers that oftentimes expose horrific industry practices: (1) agricultural interference laws, which ban recording images and sounds without consent, (2) agricultural fraud laws, which ban applying for employment with false pretense, and (3) rapid recording laws, which require anyone who records images or sounds to turn these recordings in to authorities within 48 hours.

North Carolina's ag-gag law, a hybrid of the three types, was passed in 2015 as the Property Protection Act and was in response to leaked footage of factory farm workers mistreating **turkeys** and **chickens**. In an effort to create a permissible law unique to the failed ones of other states, North Carolina opted in the Property Protection Act to allow employers to sue employees for recordings, interferences, or employment fraud, rather than criminalize the actions themselves. One supporter of the law, Republican Congressman Chuck McGrady, defended it by claiming of factory farms, and thus all practices that take place within, "It's personal property, folks. It's

something that's protected in our Constitution." Judge Schroeder, however, disagreed. In his 2020 **ruling**, Schroeder stated many parts of the 2015 law clearly violated the First Amendment and were unconstitutional, while certain aspects of the law were sound, such as employers suing employees for knowingly opening a gate to free livestock.

As one of the attorney's representing the environmental organizations David Muraskin noted, the ruling comes at a pivotal time. The COVID-19 pandemic has highlighted sanitary and ethical **issues** surrounding working conditions in American factory farms, and the ruling against this ag-gag law offers greater potential protection and freedom for factory farm employees, and allows for greater insight and public accountability into factory farms. Although its original existence in seven American states is alarming, ag-gag laws, and thus the attempt to silence whistleblowers and protect factory farms' inhumane practices, continues on the downward trend thanks to Judge Schroeder's recent ruling. North Carolina has become the fifth state to pass an ag-gag law that has subsequently been determined unconstitutional, and seventeen states have rejected ag-gag legislation proposed by industrial agriculture interests. Recently, however, governments outside the United States, including the Canadian provinces of Alberta and Ontario, have adopted American-style ag-gag legislation, and it becomes pressing that this attempt to suppress public awareness, investigative journalism, and free speech does not propagate around the world.

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