Supreme Court Unanimously Holds California Law Prohibiting Sale, Processing or Holding of Nonambulatory Pigs Expressly Preempted under the Federal Meat Inspection Act

Donnelly L. McDowell

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In a unanimous opinion published on January 23, 2012, the Supreme Court reversed the Ninth Circuit Court of Appeals and held that a California law prohibiting the sale, processing or holding of a nonambulatory animal was expressly preempted by the Federal Meat Inspection Act (FMIA).

The case, National Meat Association v. Harris, dealt with Section 599f of the California Penal Code, which was enacted in 2008 in response to an undercover video released by the Humane Society showing workers in California kicking and electroshocking sick and disabled cows in an attempt to move the cows. The law makes it a crime for any slaughterhouse to "buy, sell or receive a nonambulatory animal," or to "process, butcher or sell meat or products of nonambulatory animals for human consumption," or "hold a nonambulatory animal without taking immediate action to humanely euthanize the animal."

The National Meat Association (NMA) sued to enjoin enforcement of the law as applied to swine slaughterhouses and argued that the FMIA's broad express preemption provision prohibited California from enacting distinct requirements for the handling of nonambulatory pigs. The FMIA and implementing regulations enacted by the Department of Agriculture's Food Safety and Inspection Service (FSIS) broadly regulate slaughterhouses to promote meat safety and humane treatment. With respect to the treatment of nonambulatory pigs, FSIS regulations permit slaughterhouses to hold and eventually sell nonambulatory animals, subject to a "post-mortem" examination.

Section 678 of the FMIA broadly preempts any attempt by a state to impose "requirements within the scope of this [Act] with respect to premises, facilities and operations of any establishment at which inspection is provided under . . . this [Act] which are in addition to, or different than those made under this [Act]." The Court explained that the "FMIA's preemption clause sweeps widely" and "covers not just conflicting, but also different or additional state requirements."

The Court noted that the California law would dictate different results than would the FMIA both when a pig becomes injured and nonambulatory at the slaughterhouse and when a pig is nonambulatory at delivery. The Court explained that the California law criminalizes the holding of a

nonambulatory animal “without taking immediate action to humanely euthanize it,” while federal law permits a slaughterhouse to “hold (without euthanizing) any nonambulatory pig that has not been condemned” as also having a serious disease. Similarly, the California law criminalizes a slaughterhouse “receiv[ing]” or “buy[ing]” a pig that is nonambulatory at the time of delivery, while FMIA regulations specifically authorize slaughterhouses to buy nonambulatory animals. As such, the California law attempted to impose additional requirements with respect to premises, facilities and operations of swine slaughterhouses and thus was preempted by the FMIA.

In finding preemption, the Court rejected a number of arguments made by the Humane Society, which intervened to defend the law based on its members’ interest in the protection of nonambulatory animals. First, the Court rejected the argument that the ban’s prohibition on sales did not relate to a slaughterhouse’s “premises, facilities and operations,” and thus was not subject to preemption, because such events may occur offsite. The Court noted that the FMIA broadly preempted regulations dealing with the slaughtering and processing of animals and warned courts to not overemphasize “any distinction between a slaughterhouse’s site-based activities and its more far-flung commercial dealings.”

The Court also rejected the Humane Society’s argument that the FMIA only applies to “animals that are going to be turned into meat” and therefore permits states to “decide which animals may be turned into meat.” The Court noted that FSIS regulations exclude many classes of animals from slaughter and thus also regulate animals on slaughterhouse premises even if they will never be turned into meat. The Court was careful to distinguish appellate court decisions upholding state bans on slaughtering horses. While expressing no opinion on those decisions, the Court noted that those laws prohibit horses from being delivered to slaughterhouses altogether, while section 599f inevitably affected the premises, facilities and operations of slaughterhouses because pigs often become disabled either in transit or upon arrival at slaughterhouses.

The decision emphasizes the broad federal preemption provided for under the FMIA and shows that attempts to circumvent federal preemption by framing regulation as unrelated to slaughterhouse operations will be met with a crucial eye. While the decision only addresses FMIA preemption of the California law as applied to swine slaughterhouses, it has potentially far reaching implications for producers of meat, poultry, and processed egg products that are subject to FSIS regulation under the FMIA or other statutes that include comparable federal preemption provisions. The decision is likely to be helpful for certain FDA regulated products that are subject to broad express federal preemption under the Federal Food, Drug and Cosmetic Act (FDCA).

A full text of the decision is available here.

This post was written by Donnelly McDowell.