

I chiefly address 6 V.S.A. Sec 3311(a), our state's on-farm slaughter "exception," which is set to expire on July 1, 2019, and issues relative thereto.

I have written extensively about this absurd law, and I have openly violated it and challenged its constitutionality. In my entire 30-year legal career, I have not witnessed a law which so clearly demonstrates inappropriate, unconstitutional action by a state government.

At the Senate's hearings on this issue three years ago, the VAAFM assured the Committee that it had no involvement whatsoever with its drafting. And, current Secretary Tebbetts has met with me and agreed that this law should be amended. I defer to him (and an article I wrote with his prior approval on vtdigger) for the details of his position. Who drafted the original legislation? If the VAAFM and farmers are in agreement, where did this garbage come from?

The United States Constitution supersedes all state law that conflicts with its provisions. As a most basic constitutional issue, states (including Vermont) cannot impinge on citizens' rights unless there is a showing of a governmental interest: in the case of closely protected freedoms (like speech), that governmental interest must be "substantial" or "compelling." ALL laws must be, at the very minimum, "rationally related" to a legitimate state interest.

Existing Vermont on-farm slaughter legislation is indefensible, and would have a hard time withstanding judicial challenge. The State of Vermont alleges a health and safety interest in regulating on-farm slaughtered meat. This power falls under the state's police powers, and is subject to the Constitutional standard (at minimum), of a rational relationship to advancing public safety.

Existing legislation is absurd for the following reasons:

- 1) There have been serious health threats in the United States from meat, particularly salmonella in chickens and e coli in beef. Yet almost all of this threat arises from increasingly massive, vertically and horizontally integrated "industries" of animal production, animal slaughter, and animal processing. I am not aware of a single person made ill by a local, Vermont farm meat. Yet our Vermont Agency of Agriculture, Food and Markets was awarded federal grant money and hired four new meat inspectors upon passage of this insulting statute. This is a *bureaucratic* cow milked at the expense of local liberty and commerce.
- 2) To the extent there is any legitimate State interest to protect public health, this statutory scheme falls Constitutionally foul in the following areas (among others):
 - a) The sunset provision. This means that our rights to raise and sell foods, a longstanding Vermont tradition, have been legislated away. "Extending" the axe over our heads does not excuse the complete governmental abuse in the gall to seek to simply phase us out, unconstitutionally and with absolutely no factual justification. I am relieved that the sunset provision is being fully repealed. About time.

- b) It limits the number of animals I can raise and sell, by number and by weight. How absurd, and arbitrary. Does the Legislature limit how many fossil-fuel burning cars a dealer can sell, or how many water-contaminating cows a confinement dairy can raise? Existing law restricts me to selling 5 cows annually -- is the 6th cow a health risk? Because that is YOUR burden to demonstrate -- that the sixth cow is a sufficient health and safety risk that its prohibition of sale is “rationally related” to that admitted state goal. Good luck with that -- 50 TJ Donovans will be of no avail.
- c) It limits my sales to whole animals. Again, there is absolutely no defensible “rational” reason for this. Transported to a local slaughterhouse, these two halves go through the *exact same* slaughter, transport, and butchering process. Their health and safety issues are indistinguishable. This provision does however place a serious impediment to the sale of on-farm slaughtered livestock, for very few customers have the funds, family size, or freezer space to purchase an entire beef. H. 274 remedies this failing.
- d) It’s reporting requirements carry a threat of incarceration that exceeds that for federal law for non-filing of a tax return. I have raised this before.

3) Animal Rights issues

On-farm slaughter is also about humane animal treatment. My animals do not suffer: cases of abuse and error in slaughterhouses abound.

Trucking the animals prior to slaughter stresses them greatly, compromises immune system and meat quality (including both flavor and tenderness; especially in swine), and exposes them to pathogens in the truck and slaughterhouse not present on the home farm. (Indeed, many farms, including mine, strive for “closed herds,” so that foreign microbes are avoided).

Islam and Judaism both embrace slaughter traditions that seek to minimize animal suffering. This is recognized with an exception in Vermont Statutes Chapter 6 section 3131 for methods consistent with the Jewish or any other faith. Neighboring New York permits not only the sale of quarters, but the complete processing on site of an animal, largely in protection of those humane religious practices. The effect of Vermont’s law is that Christians are banned from employing THE most humane procedure for slaughter -- a bullet to the brain -- and instead are compelled to truck the animal, let it sit overnight in a strange cement courtyard, and be stunned by a minimum-wage, potentially callous “employee.”

Packinghouses in both Grand Isle and Springfield have given us high profile examples here in Vermont of why I don’t want someone else to do my dirty work for me. I kill with remorse, compassion, and gratitude. So do my itinerant slaughterers, the majority of whose businesses will be destroyed if the exemption expires. Further, the small custom processors that we use, who don’t offer slaughter services -- they are out of the loop, greatly damaged economically (perhaps 40% gross) with NO improvement in food safety.

Meanwhile, apparently there is no “health and safety” concern for the Jewish or Muslim executioner, who is free to kill the animal solely by cutting its throat, with no prior stunning or bullet. So much for animal welfare. (Temple Grandin has written about this subject). <http://vjel.vermontlaw.edu/files/2016/01/Friedrich.pdf> (Vermont Journal of Environmental Law, p.230-231): “It is impossible that ritual slaughter, even if done perfectly, could be as humane as well-conducted conventional slaughter...Where conventional slaughter requires that animals be rendered instantly insensible through stunning, ritual slaughter causes significant suffering for however long is required for animals to lose consciousness. According to recent studies, time to insensibility will average between eight to twenty seconds, but will often last for a minute or even longer.”

My customers pay a premium to know that the animal they eat was well fed, well treated, and *well-slaughtered* and processed. They often wish to know the animal’s name (so we farmers make one up!). This is a desirable value in our customers and society, and core to the localvore movement, of which Vermont remains national leader despite government efforts to undermine us. Any law that diverts my animals from on-farm slaughter destroys that last link that our customers desire: humane slaughter.

“The ASPCA said the demand for humane-certified food is growing, and that Middlebury College, the University of Vermont Medical Center, Northern Vermont University-Lyndon, Sterling College and Black River Meats have made a commitment to buying from welfare-certified producers.” (vtdigger, April 8, 2019.) That’s us. No one is more animal-welfare conscious than the on-farm slaughterers. It’s part of our business model. That’s why H. 274 should be enacted.

Notice please that all of the effects of current legislation are to hurt farmers commercially while doing zero to protect public health. They also undermine humane animal treatment. I refer this Committee to two insightful resources:

Life, Liberty, and the Pursuit of Food Rights, David Gumpert, which chronicles how states enact legislation like this at the quiet urging of federal bureaucrats, initiated by large trade industries that ever and always employ their influence to create laws that increase their market share by pushing out small competitors.

“Food Choice is a Fundamental Liberty Right,” 9 Journal of Food Law & Policy, 173, 2013, Dave Berg. This is a scholarly law review article that is a roadmap to create a Roe-like precedent at the federal level of a Constitutional right to grow (and distribute, if local and traditional), one’s own food. This might seem a bit like suing for the right to breathe oxygen, because *it is*. And the Vermont Legislature had better stop passing laws that cut off our liberties, our oxygen, in stunning ignorance of its most fundamental duties as a legislative body. The Courts understand this: that’s why we have courts.

Sidenotes:

1) The Senate bill endorses huge projects for VAAFM -- I guess the State is considering financing a milk processing plant. The slaughter laws show how little "business" the State has investing tax dollars in farming. But the Senate Bill shows how much bureaucratic business is undertaken by VAAFM, with our tax dollars, even as farms shrink and more laws and regs are added to further burden them.

2) Section 10 investigates RFID chipped tags for our animals. If you hear anything I've said, consider how it applies to RFID -- maybe the current staff have forgotten what happened last time the VAAFM attempted this, when there was near mayhem. You can microchip all the suburban pets before harassing farmers under the pretense of safety -- rabies should be tracked in cats and dogs, no? With a mere 750 dairy farms remaining, and small farms struggling to find profit niches, always the State juggernaut expands its reach; like the virus that kills the patient. Never fear, soon there will be no farms left to bully; no animals remaining to tag. Henry Kissinger's prophetic statement will become reality: "Control the food, control the people." I say, not in Vermont! You can pass all the silly out-of-touch laws you want, but you can only RFID any of my animals by force of arms. You'd better have a pretty good health and safety justification for this expansive intrusion. You want to enrage Vermont's farmers, go ahead and pass this federally-motivated expansive government intrusion with a mere hypothetical justification, and watch how these financially-crushed farmers rise up against you, justified.

3) H. 254 in the House will equip VAAFM to inspect animal housing. How on earth will bureaucrats who don't know how to legislate tell farmers how to house animals? It's not that there is no animal abuse -- it is that government abuse is a greater problem.

4) I applaud H. 268 et al, banning atrazine and neonicotinoids. I am no hypocrite here, for I raise grass-fed animals and I don't like cancer, dead bees, or transgender fish. This is well within the State's health and safety powers, and justified. There is no atrazine in my lambs, however.

5) H. 289 seeks to regulate chicken housing, etc. Again, please consider how much power you are granting government agencies compared to the risk -- have there been salmonella cases? I don't know. Will government regulations for chicken housing drive many perfectly healthy operations out of business and increase costs? Assuredly. Legislators seem to envision a perfect world administered by government agents. Orwellian government chicken coop inspectors. This country consumes more than 9 billion chickens annually, and about 89 billion eggs -- and you folks want to bring every little backroad chicken coop into compliance with more stringent regulations than the industrial factory farms. We've lost animal diversity and availability (again, in inverse proportion to the growth of government regulations and enforcement personnel) -- we need more animals, not more animal regulation. This is a food security (not safety) issue, and I frankly don't think the Legislature gives this any consideration at all.

6) I applaud H. 480 (unpasteurized milk sales). Clearly, someone in your midst has a clue.

H. 274, the chief legislation at hand, is overall a great step forward. It repeals the sunset, allows farmers to slaughter, and very importantly, permits us to sell halves and quarters. I applaud all these changes, though I oppose to number or weight restrictions as unjustified for health and safety. And, failure of farmers to file forms should not be punishable criminally.

Vermont's Legislature must resist being the lackey for corporate interests that wish to compel us into yet greater (and extremely dangerous) dependency on industrial food, even willing to undermine existing small-scale agriculture to further expand the State's bureaucracy. That's precisely what this existing legislation was intended to do, and what it will accomplish if not amended.

If the Vermont Legislature empowers overpaid, vacation-enjoying, administrative police from its VAAFM to walk onto Vermont farmers' property unannounced, as happened to me and initiated my involvement here, you had better be especially conscious of possessing the Constitutional power to do so! This situation does, and should, undermine public trust in this Body. Please restore some.

Vermont must lead the nation in reversing this legislation and reaffirming boundaries of government integrity and farmer-consumer liberty.

“...the greatest destroyer of the small economies of small farms has been the doctrine of sanitation. I have no argument against cleanliness and healthfulness; I am for them as much as anyone. I do, however, question the validity and honesty of the sanitation laws that have come to rule over farm production in the last thirty or forty years. Why have new sanitation laws always required more, and more expensive, equipment? Why have they always worked against the survival of the small producer? Is it impossible to be inexpensively healthful and clean?”

— **Wendell Berry, Bringing it to the Table: On Farming and Food**

We Vermont farmers have been doing things the inexpensive, healthful, clean, and *humane* way for generations (in my family, nine generations and counting) -- it's called on-farm slaughter. Please preserve this tradition.

Some articles re my past efforts:

<https://www.davidgumpert.com/vermont-farmer-opts-regulated-beef-slaughter>

<https://www.davidgumpert.com/farm-slaughter-need-get-law-right>

<https://vtdigger.org/2016/04/21/john-klar-the-disconnect-between-vermonts-small-farms-and-montpelier/>

<https://vtdigger.org/2016/09/08/john-klar-assault-small-farms/>

<https://vtdigger.org/2016/03/31/john-klar-time-for-some-animal-welfare-accountability/>

<https://vtdigger.org/2016/05/06/john-klar-what-if-lawyers-became-hairdressers/>

Regarding my consultation with Secretary Tebbetts:

<https://vtdigger.org/2018/06/21/john-klar-preserve-sensible-slaughter-traditions/>