

Show-Me the beef and how it's processed

Missouri is known for many things — its state parks, its gorgeous rivers and bluffs, its football (GO CHIEFS!) and basketball teams. One of those pillars of its fame is its agriculture production. The farms full of corn and soybeans waving in the August breeze. The baby sheep, goats and cows in the spring. All contribute to the image of this state.

Along with that, however, comes the other end of its agricultural production — the industry that brings us fresh meat. That is a facet of Missouri's economy that isn't as easy to talk about. The state fair last month brings lots of blue-ribbon animals that kids take a lot of pride in. But that's often where the story ends. From that point on, the subject is fraught with much conflict

and not going to be the focus of this column, except for the fact that there were interesting developments last month nearby regarding the First Amendment rights of journalists to cover this subject.

To make a long story short, Missouri has had a law since 1992 regulating the ability of persons to enter an "animal facility by false pretenses for the purpose of performing acts not authorized by the facility," among other acts prohibited by the law. An animal facility was broadly defined in Section 578.405 as any facility

involving the "use of animals." That law classified such acts as a Class A misdemeanor, with other crimes of greater magnitude included in that law classed as high as a class B felony.

The massive tort reform bill passed by the Missouri legislature in 2014 included significant changes to this law. It added that, effective in 2017, the director of the department of agriculture could investigate any violation of the statute and take action for enforcement of the statute and the attorney general and the highway patrol were given authority to assist in the investigation.

As one of only five states (also including Montana, North Dakota, Arkansas, and Alabama) where such acts include a potential criminal charge, Missouri has not recently seen any significant "whistleblower" efforts involving either journalists or citizens reporting from inside a packing plant or other similar facility on what are believed to be unlawful or inhumane practices. Does this law hinder the First Amendment rights of citizens? Can a business use a law like this to shut down criticism of its operations? States have had few challenges to such laws, but in the last month, two cases have arisen that could portend a shift in the winds coming.

On Aug. 9, the 8th Circuit Court

of Appeals, which includes Missouri, issued an opinion in a case involving a challenge to the Arkansas law which created a civil cause of action for those who exposed abuse to animals in such operations. The appellate court first reversed an underlying Arkansas circuit court opinion dismissing a lawsuit filed by The Animal Legal Defense Fund (and others) arguing that the Arkansas law was a violation of First Amendment rights. The next day, another panel of 8th Circuit Appellate judges held that a similar Iowa law properly prohibited persons from using false pretenses to gain employment at such facilities but held other parts of the law were unconstitutional. Both opinions contained significant dissents that leave room for further challenges in those states.

And then on Aug. 19, the 10th Circuit Court of Appeals issued its opinion upholding a Kansas district court opinion which declared that state's law on this subject unconstitutional and prohibiting its enforcement. "... [T]he statute is not limited to false speech lacking constitutional protection. Instead, it punishes entry with the intent to tell the truth on a matter of public concern," the decision said.

Given that these are three states adjoining Missouri, that would seem to put the Missouri statute in a small box with a large bullseye on it. The "Show-Me" state is likely to see significantly more attention paid to its slaughtering operations than we've seen in recent years before this challenge is over.

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