

### **Analyzing Amendment One - The Right to Farm** **News**

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(komu.com) - Amendment One, also known as the "Right to Farm" amendment, is one of five possible amendments to the Missouri constitution facing voters during the Aug. 5 primary election.



Although the bill was first introduced in the Missouri House of Representatives in January 2013, the origins of the bill can be traced back to 2010. In the November general election that year, Missouri voters passed the Puppy Mill Cruelty Prevention Act, better known as "Proposition B." It placed restrictions on Missouri dog breeders, limiting how many dogs they could have, and enforcing standards for their care.

However, in April 2011, Missouri Gov. Jay Nixon signed an act which altered Proposition B. It changed the official name to the Canine Cruelty Prevention Act and removed the prohibition preventing breeders from having more than 50 dogs. It also removed the criminal penalty provision from the original bill.

According to Rep. Bill Reiboldt [R-Neosho], Proposition B was passed largely due to heavy influence from the out-of-state group, the Humane Society of the United States (HSUS). He became Amendment One's primary sponsor and said it came about as a result of a desire to prevent outside influence of "radical activist groups" on Missouri farming practices.

"The idea that comes from urban areas is that we have the right to regulate what happens in the country and I kind of question that," Reiboldt said.

Former Missouri Lt. Gov. Joe Maxwell, a leading opponent of the amendment, said while he supported Proposition B, it is separate from the farming issue at hand on this amendment.

"I don't consider puppy mills to be animal agriculture," Maxwell said. "Puppy mills are not animal agriculture, it's raising dogs the wrong way."

Reiboldt said many of the votes for Proposition B came from the urban centers in St. Louis and Kansas City, while the "no" votes were mainly from rural Missourians.

"Kansas City and St. Louis, I think people in those areas don't realize how many good-paying jobs are directly and indirectly related to our state's agriculture economy," Reiboldt said. "The rural people understand agriculture in much different way than do urban people and urban people are so far removed from the farm, probably one or two generations from the farm."

Between January 2013 and May 2013, several versions of the bill passed back and forth between House and Senate committees, including two joint conferences to iron out differences between the two legislative houses. Both chambers eventually passed the bill as House Joint Resolution [HJR] 11 and 7. This resolution was the combination of Reiboldt's original bill, known as Resolution 11, and a similar bill, known as Resolution 7, from the bill's co-sponsor Rep. Jason Smith.

In May 2014, Nixon placed HJR 11 and 7, renamed as Constitutional Amendment One, on the August primary ballot, which gave amendment supporters and the opposition a little more than 10 weeks to influence voters' decision on the "Right to Farm." Television ads for and against the amendment

began airing Monday.

If voters approve the amendment, it would add Section 35 to Article I of the Missouri Constitution. The language of the amendment reads as follows:

"Section 35. That agriculture which provides food, energy, health benefits, and security is the foundation and stabilizing force of Missouri's economy. To protect this vital sector of Missouri's economy, the right of farmers and ranchers to engage in farming and ranching practices shall be forever guaranteed in this state, subject to duly authorized powers, if any, conferred by article VI of the Constitution of Missouri."

Amendment One has sparked a heated debate in the agricultural community, the largest industry in the state. Opponents of the amendment strongly disagree this amendment will serve to protect the local farmer, which supporters of the bill argue.

Former Lt. Gov. Maxwell is now the vice president of outreach and engagement at HSUS. He said the amendment will actually do the opposite of protecting local farmers. He said the amendment will give foreign countries and corporations the opportunity to take control of agriculture in the state.

"It's a change to our constitution, the people's law and, for the first time, corporations are seeking rights in the constitution no different than I have as a family farmer and I think that is unfair," Maxwell said. "The constitution is not a place corporations should gain rights in."

However, Reiboldt said the idea that foreign entities will take over Missouri farms is completely unfounded.

"Nothing earth-shattering is going to happen like some would lead you to believe, like allowing foreigners to come in and to buy our land and pollute it and trash it. This is just a blatant lie. It will not happen," Reiboldt said. "I'm opposed to foreign ownership of land."

Maxwell now lives in his hometown of Mexico, Missouri, where he has an attorney practice and helps his twin brother, Steve, work on their family farm, which has been in their family for four generations.

Maxwell said one of the main issues opponents have with the amendment is the wording is too vague. In particular, Maxwell said the amendment isn't specific enough as to who qualifies as a farmer or rancher, or what exactly "farming and ranching practices" entail.

"The ballot language says citizen. If you read what you're going to vote on in the ballot booth, you say, 'Oh yeah, citizens should have that right,'" Maxwell said. "If you read the actual language, if it passes, what will go into effect in our constitution, it doesn't say 'citizen,' it says 'farming and ranching' and as we know in this country, you can't discriminate between corporations and individuals."

Reiboldt agrees the language is vague, but said the purpose of the vague language is to cover the broad agricultural spectrum in Missouri.

"One reason the language has to be vague is because of the diversity of agriculture in Missouri," Reiboldt said. "This is a legislation in scope like the right to bear arms. That's all that's in there. But you can build on that legislatively and statutorily. It gives the protection to begin with. There's nothing in Amendment One that's going to hurt agriculture."

Another primary opponent concern is the power the amendment would have as part of the state constitution.

Wes Shoemyer, the former Democratic senator of Missouri's 18th district, said, because the word of the state constitution is the highest authority in Missouri state legislature, local ordinances and state statutes already in place regulating farming could be overruled by the new amendment. Shoemyer created the Missouri's Food for America PAC specifically to fight Amendment One. Missouri's Food for America is the largest PAC in opposition to the amendment.

"As the old saying goes, the constitution trumps all, which means any statute, any local ordinance we're going to be giving those rights away and taking the legislatures, the city councils, and county governments out of the picture for agriculture regulation," Shoemyer said.

Shoemyer said the amendment would mostly benefit corporations.

"What Amendment One does would certainly transfer those rights that family farmers already enjoy to these corporations. I think it's a very dangerous precedent," Shoemyer said. "This is enshrining rights in the constitution to those people who should not enjoy these rights."

Maxwell said Amendment One "would take away safeguards for our drinking water. In rural areas around Mark Twain Lake where 15 counties get their drinking water, there's a green zone around that lake that says 'you can't come in here corporations and build factory farms that could possibly contaminate our drinking water.' Those ordinances could go away if this passes, affecting our clean drinking water."

Reiboldt said Amendment One would not allow anyone to bypass local ordinances or statutes. According to Reiboldt, the language in the amendment retains the local control Missouri has now in regulating farms under Article VI of the Missouri Constitution.

"That was the decisive factor that got it through the Senate was when we made [local control] clear in both the ballot language and the section change," Reiboldt said. "This passed overwhelmingly in both houses."

Although Shoemyer makes his living as a farmer on his family farm in Monroe County, he also serves on the HSUS Missouri Agricultural Council as a means of opposing this amendment. The former senator said he works with HSUS on a volunteer basis without pay because he wants to represent himself as a farmer and not as an employee of HSUS.

Shoemyer said the recent acquisition of 50,000 acres of farmland by a Chinese corporation is a prime example of what's to come if the amendment passes. Last year, the Hong Kong-based group Shuanghui International Holdings Limited, now known as W.H. Group Limited, purchased Smithfield, a pork producer formerly based in Virginia. The company was granted an exception from the Missouri legislature to allow them to purchase the land and according to Reiboldt, it was President Barack Obama's administration that approved the final sale to the Chinese company.

Shoemyer said Smithfield's parent company controls 27 percent of the pork produced in the United States and the company plans to build concentrated animal feeding operations, or CAFOs, on the land it purchased in Missouri.

Sen. Brian Munzlinger [R-St. Charles County] took over Shoemyer's senate seat following the 2010 election. He also served in the Missouri House from 2002 to 2008. He said the Smithfield acquisition happened long before the vote on HJR 11 and 7 and is being used as a scare tactic by opposition.

The opposition "tries to bring things out of the woodwork to make it look as bad as it can," he said, but he doesn't see anything like a corporate takeover happening.

"We do have in statute currently that no more than one percent of Missouri farmland can be owned by foreign corporations," Munzlinger said.

Reiboldt said the amendment's wording is vague as a means of allowing local governments to create their own ordinances more closely tailored to their needs.

"With constitutional privileges and rights comes reasonable regulations and responsibilities. Farmers have probably the number one regulated industry in the country," Reiboldt said.

Opponents of Amendment One have also cited possible litigation costs that could hamper the state judiciary as a reason Missourians should vote "no" on the "Right to Farm." Maxwell said, as a result of the vague wording in the amendment, the state would see challenges to the bill's constitutionality as well as people using the amendment as a legal tool to circumvent current regulations.

Maxwell said this would effectively let the courts decide who is a farmer and what constitutes farming and ranching practices.

Shoemyer agreed this amendment would result in court litigation.

"This is a constitutional amendment. If it's not perfect, if it's not right, the courts are going to decide it and both sides understand how vague this is written," Shoemyer said. "I think people need to remember that to rely on the courts, it'll cost the state millions to defend the law. We need to remember these corporations have more attorneys on retainer than we have in most of our home towns. It's not the family farmers that are going to be able to go to court to defend themselves."

Shoemyer rejected the idea that the courts would protect Missouri farmers under this amendment, citing a decision from the court which prevents Missouri farmers from storing their own seed.

According to Munzlinger, who supports the bill, the idea that challenges to Amendment One would overrun Missouri courts is mostly rhetoric from the opposition.

Reiboldt said the legislation on the ballot is modeled after a similar bill passed in North Dakota in 2012. He said North Dakota has not seen a dramatic increase in legal battles concerning their "Right to Farm" legislation and he doesn't anticipate any increase in Missouri if the amendment passes.

"This was one of the issues brought up by the opposition in North Dakota and it just hasn't happened there," Reiboldt said. "Here in Missouri, I've had several legal opinions given to me by agricultural attorneys and basically they're saying it's just not going to happen. It's not going to immediately cause all the problems they say it's going to. This is a worst case scenario and not something we need to be concerned about."

Munzlinger agreed Missouri will not see nearly the increase in court costs claimed by the opposition.

"There will be some [litigation] undoubtedly, but really its to keep these activists group out of Missouri," said Munzlinger, the chairman of the House committee on Agriculture, Food Production and Outdoor Resources, "I think that is all hype and scare tactics that the opposition is using. I don't see any more court battles than we see now."

Political Action Committees (PACs) have raised more than \$430,000 to oppose the amendment, the majority of which comes from the Missouri's Food for America PAC. The opposition also received a \$375,000 donation from HSUS.

A large majority of legislators voted in favor of the final HJR 11 and 7. In the final vote for approval in the House, 132 representatives voted "yes," with 25 casting a "no" vote. In the Senate, 28 senators voted "yes" on the bill, with six dissenting votes.

"We feel farmers in Missouri need some sort of protection heading into the future so that our state's number one industry is not interrupted by out-of-state activists or animal rights groups," Reiboldt

said. "Missouri is the number one target of these outside groups."

Missouri already has some legislation on the books regarding the "Right to Farm." Chief among these is a 1975 statute, included in chapter 350 of the Missouri Revised Statutes, which gives farmers protection from any nuisance charges against their farm. These complaints can stem from byproducts of farming such as noise or smell. The same statute had a section preventing corporations from obtaining agricultural land in the state after Sept. 28, 1975. Legislators further augmented legislation governing corporate farming in 2012, putting a cap on farmland that can be owned by a foreign corporation at 1 percent.

Supporters point to these statutes as providing the necessary protection against corporations and the said opposition's fear of corporate influence is unfounded. But Maxwell said foreign corporations should be kept at a minimum in Missouri to stem the influence of foreign currency in the Missouri economy.

"Foreign corporations and foreign companies have the ability to influence the monetary system and come in here with cheaper dollars, driving up the price of farmland, increasing taxes on farmers," Maxwell said.

Proponents of the constitutional amendment have consistently pressed one goal above all others for the amendment's passing - protecting Missouri farmers and their ability to operate their own family farms.

Munzlinger said Missourians need to pass this amendment to protect both the farmers and the people who buy their products.

"We need this to pass to keep the freedoms that our consumers and our farmers both have," he said. "Farmers, we need the freedom so we don't have outside activist interest groups telling us how we need to run our operations. For the consumer, it's because if those outside activist groups come into Missouri, their choices will dwindle and the prices will go up."

Munzlinger said it is about more than protecting just local farmers. According to him, while most of the debate has centered on farming's raw food production, the bill will have significant impact in the economy. Munzlinger said Amendment One will have trickle down effects on all aspects of the food industry in Missouri.

"It goes much further than just producing the crop or the livestock. It carries on over to the actual processors we have, the Kraft Foods, the milk processors, our other industries that handle meat," Munzlinger said. "It takes a lot of people to get it from the farm all the way to the grocery store. If we lose the right to farm in Missouri, it's going to affect all of those jobs as well."

Shoemyer said when he has met with some of Missouri's farmers, they are concerned "genetically modified organism" [GMO] crops could push them out of the market.

"I was just down with rice-growers in the boothill and they're very concerned with GMO rice coming in and ruining their export market. Monsanto could very well claim to be a farmer and say we have the rights to do this," Shoemyer said. "I don't believe that's what the vast majority of people want."

"I don't believe consumers want to give up the rights to know what might be in their food in the future and if this passes, any GMO labeling effort that got started would be null and void," Shoemyer said.

The President of the Missouri Farm Bureau (MFB) Blake Hurst said the amendment would prevent outside forces from influencing Missouri farm operations, in particular technological advances such as GMOs.

"We've seen nothing, no health effects at all, not single tummy ache happened from GMOs. It's a proven technology. It's a safe technology that's beneficial to both farmers, the environment more importantly and consumers as well," Hurst said.

MFB is a leading member of Missouri Farmer's Care, a group comprising 43 farming and agricultural organizations, such as the Missouri Pork Association, Missouri Soybeans and Missouri Corn. These organizations represent thousands of the farmers across the state, Hurst said. He has seen massive support from the bill from the MFB members, most of whom are local farmers, he said.

"We sent a letter to our members. We said, 'We need help' and they sent in contributions. \$20 at a time, \$30 at a time, \$50 at a time," Hurst said. "Thousands of farmers from across the state have sent us checks in that manner and we've been able to raise \$125,000. We were thrilled with that number. But the opposition gets one check from HSUS, an out-of-state corporation, because that's what they are, and it triples what we were able to raise. That's what we're up against."

Hurst said this is the most active he has seen the agriculture community over an issue in his time in the business.

"I've been involved with our organization for 35 years and I've never seen our members volunteering more time, working harder than they are to pass Amendment One," he said. "These are family farms all across the state. 97 percent of the farms across the state are family farms, just like ours. We're a family farm. We think this is the most important thing we can do to protect not only our farms, but more importantly, our family's way of life."

Campaign committees and PACs have raised more than \$740,000 in support of the "Right to Farm" amendment, including a more than \$100,000 contribution from the Missouri Soybean Association, among other donations.