

SYLLABUS FOR FARMED ANIMALS: LAW & POLICY
JD 287FR-1

May 28- June 6, 2013
Visiting Professor Joyce Tischler
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GOALS OF THE COURSE

Ninety-eight percent of all animals in the U.S. are farmed animals, that is, animals who are born, raised and slaughtered for food. The purpose of this course is to familiarize students with the conditions in which those animals are raised, transported and slaughtered, the policy arguments, statutory and case law relevant to the present farmed animal production system and the cultural values and economic pressures that underlie our legal system's treatment of farmed animals.

The course will focus heavily on policy issues, how the present factory farming system came to be, and its impacts on the animals, consumers of animal products, the environment and small family farmers. The status and protection of farmed animals in the U.S. will be compared to that of farmed animals in other countries. Because this is a dynamic subject, we will incorporate into our discussion references to lawsuits, developments and issues that are occurring presently.

COURSE REQUIREMENTS

1. Students are expected to attend all of the classes, read assigned text and participate regularly and respectfully in class discussions.
2. The course will include one simulation, in which students will be assigned to draft and lobby state level legislation.
3. Final exam.

COURSE READING MATERIALS

Wagman, Bruce A., *et al.* [Waisman, Sonia S., Frasch, Pamela D.], 2010, *Animal Law*, 4th Edition, *Cases and Materials*, Carolina Academic Press, Durham, North Carolina (referred to below as "ANIMAL LAW").

All other course materials will be found online or handed out, as per the Syllabus.

GRADING

This is an intensive two-week class and students will be expected to attend every session, unless there is an excused absence. Attendance, reading and participation in class are essential. Grades will be based on presence and participation in class, working knowledge of the assigned readings, participation in the class simulation and a final exam.

1. The final exam will constitute 50 % of the final grade.
2. Participation in simulations will constitute 15 % of the final grade.
3. Attendance and participation in class will constitute 35 % of the final grade. Class participation will be tracked as followed for each session:
 - 0 points = no show (no prior notice)
 - 1 point = excused absence
 - 2 points = attendance
 - 3 points = attendance and participation

COURSE OUTLINE AND READING ASSIGNMENTS

Day 1: May 28:
Introduction. What is (and is not) a “farmed animal?” Which species and in what contexts are animals defined as “farmed or farm animals,” “livestock,” “poultry” (and other related terms); what are the legal implications of such definitions and what are the underlying public policies that support disparate contextual standards? Common factory farming practices in the U.S. and the differing perspectives offered by the U.S. government, animal agribusiness industry, scholars focused on animal agriculture, and animal protectionists.

Readings:
ANIMAL LAW 24-33 (top); 419-445.

MacDonald, James M. and McBride, William D., *The Transformation of U.S. Livestock Agriculture: Scale, Efficiency, and Risks*, (A Report from the Economic Research Service, U.S. Department of Agriculture, 2009),
<http://www.ers.usda.gov/media/184977/eib43.pdf>

Putting Meat on the Table: Industrial Farm Animal Production in America, A Report of the Pew Commission on Industrial Farm Animal Production, Executive Summary (2008),
http://www.ncifap.org/_images/PCIFAPSmry.pdf

Day 2: May 29 (*Introduction, cont.*)

Union of Concerned Scientists, *CAFOs Uncovered: The Untold Costs of Confined Animal Feeding Operations*, (2008). Read Executive Summary, Introduction and Chapter One,

http://www.ucsusa.org/assets/documents/food_and_agriculture/cafos-uncovered.pdf

Federal laws relevant to the care and treatment of farmed animals.

Readings:

ANIMAL LAW, 445-452

Twenty-Eight Hour Law of 1877, 49 U.S.C. § 80502,

<https://advance.lexis.com/GoToContentView?requestid=88767c47-e9aa-7179-717c-ea6832eaf51e&crd=292672b8-3d56-43e6-99e6-a8844040e7d6>

Humane Methods of Livestock Slaughter Act, 7 U.S.C. §§ 1901 – 1907.

<https://advance.lexis.com/GoToContentView?requestid=5f076635-a6fd-efd9-1df-30c5fa7ae823&crd=7ed9d80c-5e62-824e-6656-613ac985d538>

Animal Welfare Act, 7 USC § 2132(g),

<https://advance.lexis.com/GoToContentView?requestid=d8b77594-2a71-c852-f714-375d8d375246&crd=ae1df6a0-2c53-4f68-a739-446c64896d23>

Day 3: May 30

Strategies Applied by Animal Protectionists: Consumer protection, humane labeling, false advertising, tax incentives and disincentives.

Readings:

ANIMAL LAW 452-483.

Carter Dillard, *False Advertising, Animals and Ethical Consumption*, 10 Animal L. 25, (2004), HeinOnline,

<http://ezproxy.jmls.edu:2048/login?url=http://heinonline.org/HOL/Page?handle=hein.journals/anim10&collection=journals&index=journals/anim&id=33>

(If you have problems accessing this, contact the JMLS Librarian)

Gray, Eden, *Changing the Tax System to Effect Humane Treatment of Farm Animals*, 3 J. Animal L. 159 (2007),

http://www.animallaw.info/journals/jo_pdf/Journal%20of%20Animal%20Law%20Vol%203.pdf

Current lawsuits: class handouts.

Day 4: June 3

Legislative/Lobbying Simulation: See assignment handed out on the first day of class.

Environmental issues relevant to farmed animal agricultural practices.

Readings:

ANIMAL LAW, 663-674

Concerned Area Residents for the Environment v. Southview Farm, 34 F.3d 114 (2nd Cir. 1994),

<https://advance.lexis.com/GoToContentView?requestid=42b13d01-8efe-e9df-96fd-b70112f22583&crid=42087b0-c103-f1e7-a096-dd1034c897e7>

Assateague Coastkeeper v. Hudson Farm, 727 F. Supp. 2d 433 (D. Md. 2010),

<https://advance.lexis.com/GoToContentView?requestid=7615ac6c-7ec6-d143-7e72-167a9297e7&crid=b239f302-4f2b-813-b7d4-9c5ed58471b5>

National Pork Producers Council v. Environmental Protection Agency, 2011 U.S. App. LEXIS 5018 (2011),

<https://advance.lexis.com/GoToContentView?requestid=6dc0e1f9-48a8-b398-9354-d7162c4948d1&crid=b3d3fbdd-f659-ec5b-5657-a45427e927d3>

Day 5: June 4

Issues Related to the Slaughter of Farmed Animals:

Readings:

ANIMAL LAW, 483-506

Grandin, Temple, Making Slaughterhouses More Humane for Cattle, Pigs, and Sheep, <http://www.annualreviews.org/doi/pdf/10.1146/annurev-animal-031412-103713>;

Dr. Temple Grandin's website, <http://www.grandin.com/> is chock full of information. Read as much as you can handle, but at a minimum:

Behavioral Principles of Livestock Handling,

<http://www.grandin.com/references/new.corral.html>;

Objective scoring of animal handling and stunning practices at slaughter plants,
<http://www.grandin.com/references/scoring.ab.html>;

Answering Questions about Animal Welfare during Horse Slaughter,
<http://www.grandin.com/humane/questions.answers.horse.slaughter.html>;

Avoid Being Abstract When Making Policies on the Welfare of Animals;
<http://www.grandin.com/welfare/avoid.abstract.making.policy.animal.welfare.pdf>;

Animal Welfare Evaluation of Gas Stunning (Controlled Atmosphere Stunning) of Chickens and other Poultry,
<http://www.grandin.com/gas.stunning.poultry.eval.html>;

Some of the articles on kosher and halal slaughter,
<http://www.grandin.com/ritual/rec.ritual.slaughter.html>

Litigation and Legislation Brought by or on Behalf of the Agriculture Industry

Readings:

Engler v. Winfrey, 201 F.3d 680 (5th Cir. 2000),
<https://advance.lexis.com/GoToContentView?requestid=dd243a84-e829-4da2-7123-fdd9d5caff91&crd=1faf7ebf-279c-c8db-4ce3-c7a4d5fa9a05>

Sample Ag-gag laws:

Kansas Farm Animal and Field Crop and Research Facilities Protection Act, (1990), K.S.A. Sec. 47-1825 et seq.,
<https://advance.lexis.com/GoToContentView?requestid=f1b8cbd6-f5ce-b238-8c61-28da53733d1f&crd=79c06d8a-bb15-e96f-5700-7b2db7ef1ffd>

Revised Statutes of Missouri, R.S. Mo. Sec. 578.013(2012),
<https://advance.lexis.com/GoToContentView?requestid=6389b26b-1f01-cd0f-dcf6-4ee05fe26d90&crd=8f8f6e3b-9e51-cb0d-7a2a-8c76a6ad9>

Utah Code Annotated, Agricultural Operation Interference, U.C.A. Sec. 76-6-112 (2012), <https://advance.lexis.com/GoToContentView?requestid=15df2d6d-7769-5452-39b-3cb410e51e63,10e3256f-fcc5-6cb7-db4f-bfa48eeb2181&crd=ea56bed4-5ec1-1bf4-8193-7d83b5eb8882>

North Dakota Cent. Code (N.D.C.C.) Sec. 12.1-21.1-01 –05 (1991),
<https://advance.lexis.com/GoToContentView?requestid=467ce5b9-903d-d542-ae19-a81eaa3dc1c6&crd=976cf10a-e468-69b5-6a21-2924da1ca86a>

Day 6: June 5

Targeting a specific practice -- force feeding birds in the production of foie gras

Readings:

ANIMAL LAW 458-60

Lovenheim v. Iroquois Brands, 618 F.Supp. 554 (D.D.C. 1985),

<https://advance.lexis.com/GoToContentView?requestid=e93a28b8-6f5f-fe23-7756-89b043bfb4a2&crid=fc1ab787-32b3-dea5-a95c-3869d7e1d08a>

IL Restaurant Ass'n v. City of Chicago, 2008 U.S. Dist. LEXIS 123765

<https://advance.lexis.com/GoToContentView?requestid=ac53e03-faf8-a6f6-da6-6475dc139923&crid=d5e5686b-3f5c-2610-82aa-c7f8f793c415>; and

492 F.Supp. 2d 891 (N.D. Ill. 2007),

<https://advance.lexis.com/fullDocument/fullDoc/link?requestid=6db16dc6-609d-8831-1a10-d56eb9cbf187&ContentId=%2fshared%2fdocument%2fcases%2furn%3acontentItem%3a4NYT-1NJ0-TVTV-1372-00000-00&contextFeatureId=1000516&isTab=t>

Current foie gras petitions and lawsuits: class handouts

Day 7: June 6

Illinois law relevant to the care and treatment of farmed animals.

Speaker: Ledy VanKavage, Senior Legislative Attorney, Best Friends Animal Society

Readings:

IL Humane Care of Animals Act, 510 ILCS 70/2.05a,

<https://advance.lexis.com/GoToContentView?requestid=79d35e54-9292-a19e-c998-c84d3b79c0f0&crid=7b4cadfc-6107-87a5-e743-41feaf6e8d14>

510 ILCS 3.01,

<https://advance.lexis.com/GoToContentView?requestid=ea4ed5b8-8a39-b4a7-2373-8c21f340af1&crid=6148cfd1-c8f2-aff9-e59f-eab76c13aae2>

510 ILCS 3.03,

<https://advance.lexis.com/GoToContentView?requestid=79836583-309d-18fa-f24e-17eae0022fd&crid=29ba6776-e338-26f0-849f-9cb8eb2f777>

510 ILCS 70/13,

<https://advance.lexis.com/GoToContentView?requestid=7aea6899-cf90-5221->

[b09f-42ee79492a04&crd=8ee2fc1c-ca7a-8da-7a4e-1b6d20cf8f3](https://doi.org/10.1007/978-1-4939-9999-9_10)

Farmed Animal Legislation and Practices outside the U.S.

Readings:

Birte L. Nielsen and Ruqian Zhao, *Farm Animal Welfare Across Borders: A Vision for the Future*, 2 Animal Frontiers 46-50 (July 2012)

<http://www.animalfrontiers.org/content/2/3/46.full.pdf+html>;

David N. Cassuto & Sarah Saville, *Hot, Crowded, and Legal: A Look at Industrial Agriculture in the United States and Brazil*, 18 Animal L. 185 (2012),
<http://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1867&context=lawfaculty>;

Peter Stevenson, *European Union Legislation on the Welfare of Farm Animals*, (Compassion in World Farming 2012),
http://www.ciwf.org.uk/includes/documents/cm_docs/2012/e/european_union_law_on_the_welfare_of_farm_animals_2012.pdf;

European Convention for the Protection of Animals Kept for Farming Purposes,
Review full text of document:
http://europa.eu/legislation_summaries/food_safety/animal_welfare/112070_en.htm;

EU Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes: http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31998L0058&model=guichett;

Poletto, Rosangela and Hotzel, Maria J., *The Five Freedoms in the Global Animal Agriculture Market: Challenges and Achievements as Opportunities*, 2 Animal Frontiers, 22-30 (July 2012),
<http://animalfrontiers.org/content/2/3/22.full.pdf+html>;

Matthews, L.R. and Hemsworth, P.H., *Drivers of Change: Law, International Markets, and Policy*, 2 Animal Frontiers, 40-45 (July 2012),
<http://animalfrontiers.org/content/2/3/40.full.pdf+html>

June 10: Exam.