

Ruling puts foie gras back on California menus

January 8 2015, by Brian Melley



This July 17, 2012 file photo shows Karlene Bley of Los Angeles spread her torchon of foie gras onto bread during lunch at the Presidio Social Club restaurant in San Francisco. Foie gras lovers are rejoicing after a federal judge in Los Angeles blocked California's ban on the sale of the fatty duck and goose liver. Judge Stephen V. Wilson on Wednesday, Jan. 7, 2015, permanently blocked the state attorney general from enforcing the law, which took effect two years ago. (AP Photo/Eric Risberg, File)

California restaurants can once again feature foie gras after a federal judge cut loose the ban on the fatty goose liver's sale in the state.

U.S. District Judge Stephen V. Wilson on Wednesday permanently blocked the state attorney general from enforcing part of the [foie gras](#) ban that took effect in 2012, finding that the federal government's authority to regulate [poultry products](#) supersedes the state [law](#).

Chefs cheered the return of the delicacy.

"Let the foie start flowing again!" said chef Sean Chaney of Hot's Kitchen, a restaurant that challenged the law.

Animal-rights groups blasted the practice of fattening the geese and ducks for foie gras as cruel and inhumane, and urged Attorney General Kamala Harris to appeal the decision, though her office had no immediate comment.

The ruling came early enough in the day that producers could ship foie gras to restaurants overnight, said attorney Michael Tenenbaum, who represented Chaney and foie gras farmers in Canada and New York who joined in challenging the law.

It is expected on many California menus Thursday and many more by the weekend.

State lawmakers voted in 2004 to bar California farmers from force-feeding birds with a tube, which is how foie gras is produced. That part of the law, which was phased in over seven years, was not challenged.



In this Dec. 9, 2003 file photo, Jorge Vargas uses a funneled pipe to force-feed a measured dose of corn mush to a Moulard duck in its pen at Sonoma Foie Gras in Farmington, Calif. Foie gras, the silky soft delicacy derived from the livers of force-fed geese and ducks, is stoking a battle of epicurean ethics in Northern California. Foie gras lovers are rejoicing after a federal judge in Los Angeles blocked California's ban on the sale of the fatty duck and goose liver. Judge Stephen V. Wilson on Wednesday, Jan. 7, 2015 permanently blocked the state attorney general from enforcing the law, which took effect two years ago. (AP Photo/Eric Risberg)

The farmers and a Hermosa Beach restaurant successfully targeted a second part of the law that banned the delicacy produced out of state from being served in restaurants or sold in markets.

The judge had previously rejected foie gras supporters' claims that California couldn't impose its regulations beyond state borders, and an appeals court upheld that ruling.

But the lawsuit was amended to say state law was pre-empted by the federal Poultry Products Inspection Act. That law prevents [states](#) from imposing labeling, packaging or ingredient requirements different from federal standards.

The main question was whether the state was imposing its ban on an ingredient or a process. The judge rejected the state's argument that the law was aimed at barring products created by a particular process.

"California cannot regulate foie gras products' ingredients by creatively phrasing its law in terms of the manner in which those ingredients were produced," Wilson wrote.



In this Wednesday, Aug. 9, 2006 file photo, a serving of salt-cured fresh foie gras with herbs is displayed at Chef Didier Durand's Cyrano's Bistrot and Wine Bar in Chicago. Foie gras lovers are rejoicing after a federal judge in Los Angeles blocked California's ban on the sale of the fatty duck and goose liver. Judge Stephen V. Wilson on Wednesday, Jan. 7, 2015 permanently blocked the

state attorney general from enforcing the law, which took effect two years ago.
(AP Photo/M. Spencer Green)

The judge also rejected an argument that the lawsuit improperly targeted Harris. The attorney general's office said she had no intention of enforcing the law at the time but might do so in the future.

"Defendant seeks to have her pâté and eat it, too," Wilson quipped.



In this Friday, May 11, 2012 file photo, foie gras is torched and made into a brulee at Sent Sovi in Saratoga, Calif. Foie gras lovers are rejoicing after a federal judge in Los Angeles blocked California's ban on the sale of the fatty

duck and goose liver. Judge Stephen V. Wilson on Wednesday, Jan. 7, 2015, permanently blocked the state attorney general from enforcing the law, which took effect two years ago. (AP Photo/Marcio Jose Sanchez, File)

Animal rights groups that fought to get the law passed and displayed photos of bloated ducks and geese with pipes shoved down their throats called the ruling misguided, a miscarriage of justice and absurd.

"Foie gras production involves cruelty to animals that would warrant felony charges were dogs or cats the victims," said Bruce Friedrich of Farm Sanctuary on behalf of a coalition of animal protection groups.

"The idea that a ban on egregious cruelty on farms could be pre-empted by a law that applies exclusively to slaughterhouse operations and meat safety and labeling is exactly as ludicrous as it sounds."

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