On January 6, 2015 an Act “…proposing to amend the Constitution of Kentucky relating to the right to farm[iv]” was introduced in the Senate, although it did not make it out of committee. This Act, if enacted by the General Assembly, would have presented the following question to Kentucky voters: “Are you in favor of amending the Kentucky Constitution to provide that a citizen of this state shall have a personal right to farm, subject only to any provision of common law or statutes relating to trespass or other criminal activity, eminent domain, existing or previously promulgated administrative regulations, or other property rights[iv]? Simply put, the proposed amendment would essentially prohibit the legislature from passing any law that unreasonably infringes upon a citizen’s right to engage in farming and ranching practices.

While all 50 states have some form of right to farm law which seeks to protect farmers and ranchers from nuisance lawsuits[vii], Kentucky would only be the third state to amend its Constitution to include such a right. In 2012 North Dakota became the first state to pass such an amendment. The proposition passed with little opposition in the state.[v] The same cannot be said, however, for Missouri’s attempts to create a constitutional right to farm. In August of 2014, Missouri became the second state to pass a right to farm amendment, but it was not an easy feat.[vi] The proposition pitted farmer against farmer within the state and the initial vote was so close that a recount was required.[vii]

It is unclear at this point whether or not such a ballot measure would easily pass or instead spark heated debate amongst voters in the Commonwealth. One thing is certain, however, and that is that this particular proposed amendment is much more specific than the amendments made to North Dakota’s Constitution.
Dakota's and Missouri's state constitutions. This specificity, which serves to provide a description of the types of agricultural practices protected and which laws they remain subject to, may very well be what enables Kentucky's voters to pass the amendment with little hesitation—eliminating the fear of judicial interpretation issues. However, before this question can be put to a public vote, it will first have to pass the General Assembly and it failed to do so this past session. It will be interesting to see what the future holds for SB 57.

[ii] Id.
[v] Id.