

118TH CONGRESS
1ST SESSION

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To prevent States and local jurisdictions from interfering with the production and distribution of agricultural products in interstate commerce, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 15, 2023

Mr. MARSHALL (for himself, Ms. ERNST, Mr. GRASSLEY, Mr. CORNYN, Mrs. FISCHER, Mr. COTTON, Mr. SCHMITT, Mr. CRAMER, Mr. BUDD, and Mr. HAGERTY) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To prevent States and local jurisdictions from interfering with the production and distribution of agricultural products in interstate commerce, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ending Agricultural
5 Trade Suppression Act”.

1 **SEC. 2. PROHIBITION AGAINST INTERFERENCE BY STATE**
2 **AND LOCAL GOVERNMENTS WITH PRODUC-**
3 **TION OF ITEMS IN OTHER STATES.**

4 (a) DEFINITION OF AGRICULTURAL PRODUCTS.—In
5 this section, the term “agricultural products” has the
6 meaning given the term in section 207 of the Agricultural
7 Marketing Act of 1946 (7 U.S.C. 1626).

8 (b) PROHIBITION.—The government of a State or a
9 unit of local government within a State shall not impose
10 a standard or condition on the preharvest production of
11 any agricultural products sold or offered for sale in inter-
12 state commerce if—

13 (1) the production occurs in another State; and

14 (2) subject to subsection (c), the standard or
15 condition is in addition to the standards and condi-
16 tions applicable to the production pursuant to—

17 (A) Federal law; and

18 (B) the laws of the State and unit of local
19 government in which the production occurs.

20 (c) RULE OF CONSTRUCTION.—If no standards or
21 conditions are applicable to the production of an agricul-
22 tural product pursuant to Federal law, or the laws of a
23 State or unit of local government in which the production
24 occurs, that lack of standards and conditions shall be
25 deemed to be the standards and conditions applicable to

1 the production of the agricultural product for purposes of
2 subsection (b)(2).

3 **SEC. 3. FEDERAL CAUSE OF ACTION TO CHALLENGE STATE**
4 **REGULATION OF INTERSTATE COMMERCE.**

5 (a) DEFINITION OF AGRICULTURAL PRODUCTS.—In
6 this section, the term “agricultural products” has the
7 meaning given the term in section 207 of the Agricultural
8 Marketing Act of 1946 (7 U.S.C. 1626).

9 (b) PRIVATE RIGHT OF ACTION.—A person, includ-
10 ing a producer, a transporter, a distributor, a consumer,
11 a laborer, a trade association, the Federal Government,
12 a State government, or a unit of local government, that
13 is affected by a regulation of a State or unit of local gov-
14 ernment that regulates any aspect of 1 or more agricul-
15 tural products that are sold in interstate commerce, in-
16 cluding any aspect of the method of production, or any
17 means or instrumentality through which 1 or more agri-
18 cultural products are sold in interstate commerce may
19 bring an action in the appropriate court to invalidate that
20 regulation and seek damages for economic loss resulting
21 from that regulation.

22 (c) PRELIMINARY INJUNCTION.—On a motion of the
23 plaintiff in an action brought under subsection (b), the
24 court shall issue a preliminary injunction to preclude the
25 applicable State or unit of local government from enforce-

1 ing the regulation at issue until such time as the court
 2 enters a final judgment in the case, unless the State or
 3 unit of local government proves by clear and convincing
 4 evidence that—

5 (1) the State or unit of local government is like-
 6 ly to prevail on the merits at trial; and

7 (2) the injunction would cause irreparable harm
 8 to the State or unit of local government.

9 (d) STATUTE OF LIMITATIONS.—No action shall be
 10 maintained under this section unless the action is com-
 11 menced not later than 10 years after the cause of action
 12 arose.

13 (e) JURISDICTION.—A person described in subsection
 14 (b) may bring an action under that subsection in—

15 (1) the district court of the United States for
 16 the judicial district in which the person—

17 (A) is affected by a regulation described in
 18 that subsection; or

19 (B) resides, operates, or does business; or

20 (2) any other appropriate court otherwise hav-
 21 ing jurisdiction.

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