

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. PROHIBITION AGAINST INTERFERENCE BY STATE AND LOCAL GOVERNMENTS WITH PRODUCTION OF ITEMS IN OTHER STATES.

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

(b) **PROHIBITION.**—The government of a State or a unit of local government within a State shall not impose a standard or condition on the preharvest production of any agricultural products sold or offered for sale in interstate commerce if—

(1) the production occurs in another State; and

(2) subject to subsection (c), the standard or condition is in addition to the standards and conditions applicable to the production pursuant to—

(A) Federal law; and

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

(c) **RULE OF CONSTRUCTION.**—If no standards or conditions are applicable to the production of an agricultural product pursuant to Federal law, or the laws of a State or unit of local government in which the production occurs, that lack of standards and conditions shall be deemed to be the standards and conditions applicable to the production of the agricultural product for purposes of subsection (b)(2).

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

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

(b) **PRIVATE RIGHT OF ACTION.**—A person, including a producer, a transporter, a distributor, a consumer, a laborer, a trade association, the Federal Government, a State government, or a unit of local government, that is affected by a regulation of a State or unit of local government that regulates any aspect of 1 or more agricultural products that are sold in interstate commerce, including any aspect of the method of production, or any means or instrumentality through which 1 or more agricultural products are sold in interstate commerce may bring an action in the appropriate court to invalidate that regulation and seek damages for economic loss resulting from that regulation.

(c) **PRELIMINARY INJUNCTION.**—On a motion of the plaintiff in an action brought under subsection (b), the court shall issue a preliminary injunction to preclude the applicable State or unit of local government from enforcing the regulation at issue until such time as the court enters a final judgment in the case, unless the State or unit of local government proves by clear and convincing evidence that—

(1) the State or unit of local government is likely to prevail on the merits at trial; and

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

(d) **STATUTE OF LIMITATIONS.**—No action shall be maintained under this section unless the action is commenced not later than 10 years after the cause of action arose.

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

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

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

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

(2) any other appropriate court otherwise having jurisdiction.
