

117TH CONGRESS  
1ST SESSION

# S. 2619

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

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## IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2021

Mr. MARSHALL (for himself, Mr. GRASSLEY, Ms. ERNST, Mr. CORNYN, and Mrs. HYDE-SMITH) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## 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 “Exposing Agricultural  
5 Trade Suppression Act”.

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

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) PROHIBITION.—Consistent with the Commerce  
10 Clause of section 8 of article I of the Constitution of the  
11 United States, the government of a State or a unit of local  
12 government within a State shall not impose a standard  
13 or condition on the production or manufacture of any agri-  
14 cultural products sold or offered for sale in interstate com-  
15 merce if—

16 (1) the production or manufacture occurs in an-  
17 other State; and

18 (2) the standard or condition is in addition to  
19 the standards and conditions applicable to the pro-  
20 duction or manufacture pursuant to—

21 (A) Federal law; and

22 (B) the laws of the State and unit of local  
23 government in which the production or manu-  
24 facture occurs.

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

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

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

20 (c) PRELIMINARY INJUNCTION.—On a motion of the  
21 plaintiff in an action brought under subsection (b), the  
22 court shall issue a preliminary injunction to preclude the  
23 applicable State or unit of local government from enforce-  
24 ing the regulation at issue until such time as the court  
25 enters a final judgment in the case, unless the State or

1 unit of local government proves by clear and convincing  
2 evidence that—

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

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

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

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

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

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

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

18 (2) any other appropriate court otherwise hav-  
19 ing jurisdiction.

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