

118TH CONGRESS
1ST SESSION

S. 3382

To amend the Food, Conservation, and Energy Act of 2008 to protect ranchers from out-of-state regulation that interferes with interstate livestock production, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 30, 2023

Mr. HAWLEY introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Food, Conservation, and Energy Act of 2008 to protect ranchers from out-of-state regulation that interferes with interstate livestock production, 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 “Protecting Interstate
5 Commerce for Livestock Producers Act”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to preempt States from
8 enforcing State laws incongruent with, disproportionate

1 to, or otherwise in conflict with livestock laws and regula-
 2 tions in other States, such as the laws and regulations
 3 described in *National Pork Producers Council v. Ross*, 598
 4 U.S. 356 (2022).

5 **SEC. 3. STATE INTERFERENCE WITH INTERSTATE LIVE-**
 6 **STOCK PRODUCTION PROHIBITED.**

7 The Food, Conservation, and Energy Act of 2008 is
 8 amended by inserting after section 11008 (Public Law
 9 110–246; 122 Stat. 2120) the following:

10 **“SEC. 11009. PREEMPTION OF STATE AND LOCAL INTER-**
 11 **ERENCE WITH INTERSTATE ANIMAL PRO-**
 12 **DUCTION.**

13 “(a) DEFINITIONS.—In this section:

14 “(1) DISEASE.—The term ‘disease’ has the
 15 meaning given the term—

16 “(A) ‘agricultural disease’ in section
 17 14102; and

18 “(B) in section 10403 of the Animal
 19 Health Protection Act (7 U.S.C. 8302).

20 “(2) LIVESTOCK.—The term ‘livestock’ has the
 21 meaning given the term in—

22 “(A) section 10403 of the Animal Health
 23 Protection Act (7 U.S.C. 8302);

1 “(B) section 2103 of the Food, Agri-
2 culture, Conservation, and Trade Act of 1990
3 (7 U.S.C. 6502); and

4 “(C) section 602 of the Agricultural Act of
5 1949 (7 U.S.C 1471).

6 “(3) STATE.—The term ‘State’ means

7 “(A) a State;

8 “(B) the District of Columbia;

9 “(C) the Commonwealth of Puerto Rico;

10 “(D) Guam;

11 “(E) the Commonwealth of the Northern
12 Mariana Islands;

13 “(F) the Virgin Islands of the United
14 States; and

15 “(G) any territory or possession of the
16 United States.

17 “(b) STATE LAW PREEMPTION.—No State or local
18 government, nor any subdivision thereof, shall enforce any
19 State or local law, rule, or ordinance that regulates the
20 raising, production, use, transportation, importation, sale,
21 or distribution of any livestock or goods deriving from live-
22 stock if—

23 “(1) the livestock or livestock-derived goods—

24 “(A) are used, transported, distributed,
25 sold, or offered for sale in or through, or by

1 using any means, channel, facility, or instru-
2 mentality of, interstate or foreign commerce;
3 and

4 “(B) are raised or produced in another
5 State; and

6 “(2) that law, rule, or ordinance—

7 “(A) is incongruent with, disproportionate
8 to, or otherwise in conflict with any applicable
9 regulation under the laws, rules, or ordinances
10 of the State or local subdivision in which the
11 applicable livestock or livestock-derived goods
12 are raised or produced; or

13 “(B) imposes any requirement not present
14 in the laws, rules, or ordinances of the State or
15 local subdivision in which the applicable live-
16 stock or livestock-derived goods are raised or
17 produced.

18 “(c) LIMITATIONS.—Subsection (b) shall not apply to
19 any State or local law, rule, or ordinance that regulates—

20 “(1) the import of animals suffering from or
21 likely to suffer from a recognized animal disease, in-
22 cluding the animal diseases described in section 71.3
23 of title 9, Code of Federal Regulations (or successor
24 regulations);

1 “(2) the raising of livestock if the law, rule, or
2 ordinance relates only to conduct occurring entirely
3 within the applicable State or locality and does not
4 relate to the production, use, transportation, impor-
5 tation, sale, or distribution of livestock or livestock-
6 derived goods occurring in another State; or

7 “(3) the production of livestock if the law, rule,
8 or ordinance relates only to conduct occurring en-
9 tirely within the applicable State or locality and does
10 not relate to the raising, use, transportation, impor-
11 tation, sale, or distribution of livestock or livestock-
12 derived goods occurring in another State.

13 “(d) ENFORCEMENT.—

14 “(1) FEDERAL.—The Attorney General of the
15 United States may enforce this section by suit for
16 injunctive relief.

17 “(2) STATE.—The Attorney General of a State
18 may enforce this section by suit for injunctive relief.

19 “(3) PRIVATE RIGHT OF ACTION.—Any indi-
20 vidual or entity harmed by a State or local law, rule,
21 or ordinance in violation of this section shall have a
22 private right of action against a State for injunctive
23 relief.

24 “(e) COMPLETE DEFENSE.—With respect to any civil
25 action, criminal prosecution, or other enforcement action

1 brought in any Federal, State, or local judicial or adminis-
2 trative tribunal relating to a State or local law, rule, or
3 ordinance preempted by this section, this section shall
4 serve as a complete defense to that action.

5 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
6 tion shall abrogate State sovereign immunity or authorize
7 any suit against a State for monetary damages.”.

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