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.

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

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”.

SEC. 2. PROHIBITION AGAINST INTERFERENCE BY STATE
AND LOCAL GOVERNMENTS WITH PRODUC-
TION OR MANUFACTURE 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

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

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

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

(A) Federal law; and

(B) the laws of the State and unit of local
government in which the production or manu-
facture occurs.
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 distributer, 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 like-
ly 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 com-
menced 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 hav-
ing jurisdiction.