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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to prevent preemption of State law claims that are consistent with the misbranding standards of such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. LUNA introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to prevent preemption of State law claims that are consistent with the misbranding standards of such Act, 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 “Americans vs. Poi-
5 sonous Pesticides Act”.

1 **SEC. 2. STATE LAW CLAIMS ON MISBRANDING OF PES-**
2 **TICIDES.**

3 (a) PRESERVATION OF STATE FAILURE-TO-WARN
4 CLAIMS.—Section 24(b) of the Federal Insecticide, Fun-
5 gicide, and Rodenticide Act (7 U.S.C. 136v(b)) is amend-
6 ed—

7 (1) in the subsection heading, by inserting “OF
8 LABELING STANDARDS” after “UNIFORMITY”; and

9 (2) by inserting “This subsection does not pre-
10 empt any State law claim that is consistent with the
11 misbranding standards of section 2(q).” after “this
12 Act.”.

13 (b) MISBRANDING INFORMATION.—Section 3(f) of
14 the Federal Insecticide, Fungicide, and Rodenticide Act
15 (7 U.S.C. 136a(f)) is amended—

16 (1) in paragraph (2), by inserting “The reg-
17 istration of a pesticide, and the approval of the la-
18 beling of such pesticide by the Administrator, shall
19 not be construed as a defense to any State law
20 claim. In any proceeding, including a proceeding on
21 any State law claim, registration of a pesticide and
22 the approval of the labeling of such pesticide by the
23 Administrator, shall be prima facie evidence (but not
24 conclusive evidence) that the pesticide and its label-
25 ing comply with this Act.” after “of the Act.”; and

26 (2) by adding at the end the following:

1 “(6) DUTY TO ADDRESS MISBRANDING INFOR-
2 MATION.—

3 “(A) IN GENERAL.—If the registrant or
4 the Administrator obtains information indi-
5 cating that a pesticide may be misbranded
6 under section 2(q) due to potential effects on
7 human health or the environment which are not
8 disclosed on the label of such pesticide, the reg-
9 istrant of such pesticide may amend the label-
10 ing of such pesticide to address such informa-
11 tion without prior approval of the Adminis-
12 trator.

13 “(B) DISAPPROVAL.—The Administrator
14 may disapprove, or otherwise take action under
15 section 6 with respect to, the amendment of the
16 labeling of a pesticide under subparagraph (A).

17 “(C) INFORMATION DEFINED.—In this
18 paragraph, the term ‘information’ means any
19 reliable data, findings, study, report, or docu-
20 mentation and includes—

21 “(i) a government report;

22 “(ii) an independent peer-reviewed
23 study;

24 “(iii) data of the registrant;

1 “(iv) material obtained through legal
2 discovery;
3 “(v) a disclosure by a whistleblower;
4 “(vi) material from a congressional or
5 other oversight investigation; and
6 “(vii) pesticide incident data under
7 section 6(a)(2).”.

8 (d) APPLICATION TO PENDING ACTIONS.—The
9 amendments made by this Act shall apply to any civil ac-
10 tion, including any action on remand or appeal, that is
11 pending on, or commenced on or after, the date of enact-
12 ment of this Act, regardless of the date on which the con-
13 duct that gave rise to such action occurred.

14 (e) RULE OF CONSTRUCTION.—None of the amend-
15 ments made by this Act shall be construed to modify, re-
16 strict, or otherwise affect any action for damages or in-
17 junctive relief, or the liability of any person under the law
18 of any State.