

119TH CONGRESS
2D SESSION

S. _____

To amend the Leahy-Smith America Invents Act to limit intellectual property protection for plants, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. WARREN (for herself, Mr. BOOKER, and Mr. WELCH) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Leahy-Smith America Invents Act to limit intellectual property protection for plants, 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 “Fair Seeds for Farm-
5 ers Act”.

1 **SEC. 2. LIMITATION ON INTELLECTUAL PROPERTY PRO-**
2 **TECTION FOR PLANTS.**

3 (a) IN GENERAL.—The Leahy-Smith America In-
4 vents Act (Public Law 112–29; 125 Stat. 284) is amend-
5 ed—

6 (1) in section 33 (35 U.S.C. 101 note; Public
7 Law 112–29), in the section heading, by inserting
8 before the period at the end the following: “**FOR**
9 **HUMAN ORGANISMS**”; and

10 (2) by inserting after section 33 (35 U.S.C. 101
11 note; Public Law 112–29) the following:

12 **“SEC. 33A. LIMITATION ON INTELLECTUAL PROPERTY PRO-**
13 **TECTION FOR PLANTS.**

14 “(a) DEFINITIONS.—In this section:

15 “(1) GERMPLASM.—The term ‘germplasm’
16 means plant material capable of propagation, includ-
17 ing seeds, pollen, tubers, or rootstock for use in
18 breeding, conservation, or research.

19 “(2) PLANT VARIETY.—The term ‘plant vari-
20 ety’—

21 “(A) means a plant grouping within a sin-
22 gle botanical taxon of the lowest known rank
23 that can be defined by the expression of the
24 characteristics resulting from a given genotype
25 or combination of genotypes, distinguished from
26 any other plant grouping by the expression of

1 at least 1 characteristic and considered as a
2 unit with regard to the suitability of the plant
3 grouping for being propagated unchanged; and

4 “(B) may be represented by seed, trans-
5 plants, plants, tubers, tissue culture plantlets,
6 or other matter.

7 “(b) LIMITATION.—

8 “(1) IN GENERAL.—Notwithstanding any other
9 provision of law—

10 “(A) no protection may be provided under
11 any Federal law with respect to a plant, plant
12 variety, or plant germplasm, except pursuant to
13 a law described in subsection (c); and

14 “(B) no contractual obligation or agree-
15 ment that may be allowable under a law de-
16 scribed in subsection (c) that limits the use of
17 a plant, plant variety, plant germplasm, or
18 other biological material for research, breeding,
19 experimentation, seed saving, or propagation
20 may be enforced.

21 “(2) APPLICATION.—

22 “(A) IN GENERAL.—Paragraph (1) shall
23 apply to—

1 “(i) any application for a patent that
2 is pending on, or filed on or after, the date
3 of enactment of this section; and

4 “(ii) any contractual obligation or
5 agreement entered into on or after the
6 date of enactment of this section.

7 “(B) PRIOR APPLICATIONS.—Paragraph
8 (1) shall not affect the validity of any patent
9 issued on an application to which subparagraph
10 (A) does not apply.

11 “(c) LAWS DESCRIBED.—The laws described in this
12 subsection are the following:

13 “(1) The Plant Variety Protection Act (7
14 U.S.C. 2321 et seq.).

15 “(2) Chapter 15 of title 35, United States Code
16 (commonly known as the ‘Plant Patent Act of
17 1930’).”.

18 (b) CLERICAL AMENDMENT.—The table of contents
19 in section 1(b) of the Leahy-Smith America Invents Act
20 (Public Law 112–29) is amended by inserting after the
21 item relating to section 33 the following:

“Sec. 33A. Limitation on intellectual property protection for plants.”.