

U.S. House of Representatives
Committee on Agriculture

Amendment submitted in advance (numbered in order received)

Amendment #: 23

Submitted by Rep. King

King Protect Interstate Commerce Act Amendment
To H.R. 2, the Agriculture and Nutrition Act of 2018

The purpose of this amendment is to restore integrity to the Interstate Commerce Clause in the Constitution. This amendment will stop states from regulating the production and manufacturing of agricultural products across their state lines. This amendment reestablishes the power of regulating interstate commerce to Congress. This amendment does not prohibit intrastate commerce. This amendment allows for a producer, transporter, distributor, consumer, laborer, trade association, Federal Government, a State government, or a unit of local government who experience an economic loss due to another state's trade regulations to bring suit in the appropriate federal court.

AMENDMENT TO H.R. 2
OFFERED BY MR. KING OF IOWA

At the appropriate place in title XI, insert the following new sections:

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

5 (a) IN GENERAL.—Consistent with article I, section
6 8, clause 3 of the Constitution of the United States, the
7 government of a State or locality therein shall not impose
8 a standard or condition on the production or manufacture
9 of any agricultural product sold or offered for sale in inter-
10 state commerce if—

11 (1) such production or manufacture occurs in
12 another State; and

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

16 (A) Federal law; and

17 (B) the laws of the State and locality in
18 which such production or manufacture occurs.

1 (b) AGRICULTURAL PRODUCT DEFINED.—In this
2 section, the term “agricultural product” has the meaning
3 given such term in section 207 of the Agricultural Mar-
4 keting Act of 1946 (7 U.S.C. 1626).

5 **SEC. ____ . FEDERAL CAUSE OF ACTION TO CHALLENGE**
6 **STATE REGULATION OF INTERSTATE COM-**
7 **MERCE.**

8 (a) PRIVATE RIGHT OF ACTION.—A person, includ-
9 ing, but not limited to, a producer, transporter,
10 distributor, consumer, laborer, trade association, the Fed-
11 eral Government, a State government, or a unit of local
12 government, which is affected by a regulation of a State
13 or unit of local government which regulates any aspect of
14 an agriculture good, including any aspect of the method
15 of production, which is sold in interstate commerce, or any
16 means or instrumentality through which such an agri-
17 culture good is sold in interstate commerce, may bring an
18 action in the appropriate court to invalidate such a regula-
19 tion and seek damages for economic loss resulting from
20 such regulation.

21 (b) PRELIMINARY INJUNCTION.—Upon a motion of
22 the plaintiff, the court shall issue a preliminary injunction
23 to preclude the State or unit of local government from en-
24 forcing 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 (c) STATUTE OF LIMITATIONS.—No action shall be
8 maintained under this section unless it is commenced
9 within 10 years after the cause of action arose.

