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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. MCGOVERN introduced the following bill; which was 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 The Leahy-Smith America Invents Act (35 U.S.C. 1
4 note; Public Law 112–29) is amended—

5 (1) in section 33, by adding at the end of the
6 section heading the following: “**FOR HUMAN ORGA-**
7 **NISMS**”; and

8 (2) by inserting after such section the following
9 (and conforming the table of contents appropriately):
10 **“SEC. 33A. LIMITATION ON INTELLECTUAL PROPERTY PRO-**
11 **TECTION FOR PLANTS.**

12 “(a) IN GENERAL.—Notwithstanding any other pro-
13 vision of law—

14 “(1) no protection may be provided under any
15 Federal law with respect to a plant, plant variety, or
16 plant germplasm, except pursuant to a law described
17 in subsection (b); and

18 “(2) no contractual obligation or agreement
19 that may be allowable under the laws described in
20 subsection (b) that limits the use of a plant, plant
21 variety, plant germplasm, or other biological mate-
22 rial for research, breeding, experimentation, seed
23 saving, or propagation may be enforced.

24 “(b) LAWS DESCRIBED.—The laws described in this
25 subsection are the following:

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

3 “(2) Chapter 15 of title 35, United States Code
4 (commonly known as the ‘Plant Patent Act of
5 1930’).

6 “(c) DEFINITIONS.—In this section:

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

11 “(2) PLANT VARIETY.—The term ‘plant variety’
12 means a plant grouping within a single botanical
13 taxon of the lowest known rank that can be defined
14 by the expression of the characteristics resulting
15 from a given genotype or combination of genotypes,
16 distinguished from any other plant grouping by the
17 expression of at least one characteristic and consid-
18 ered as a unit with regard to the suitability of the
19 plant grouping for being propagated unchanged. A
20 plant variety may be represented by seed, trans-
21 plants, plants, tubers, tissue culture plantlets, and
22 other matter.

23 “(d) EFFECTIVE DATE.—

24 “(1) IN GENERAL.—Subsection (a) shall apply
25 to—

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

4 “(B) any contractual obligation or agree-
5 ment entered into on or after the date of enact-
6 ment of this section.

7 “(2) PRIOR APPLICATIONS.—Subsection (a)
8 shall not affect the validity of any patent issued on
9 an application to which paragraph (1) does not
10 apply.”.