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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fair Seeds for Farmers Act''.

SEC. 2. LIMITATION ON INTELLECTUAL PROPERTY PROTECTION FOR PLANTS.

(a) IN GENERAL.—The Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 284) is amended—

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

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

''SEC. 33A. LIMITATION ON INTELLECTUAL PROPERTY PROTECTION FOR PLANTS.

''(a) DEFINITIONS.—In this section:

''(1) GERMPLASM.—The term 'germplasm' means plant material capable of propagation, including seeds, pollen, tubers, or rootstock for use in breeding, conservation, or research.

''(2) PLANT VARIETY.—The term 'plant variety'—

''(A) means a plant grouping within a single botanical taxon of the lowest known rank that can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, distinguished from any other plant grouping by the expression of

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

"(B) may be represented by seed, transplants, plants, tubers, tissue culture plantlets, or other matter.

"(b) LIMITATION.—

"(1) IN GENERAL.—Notwithstanding any other provision of law—

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

"(B) no contractual obligation or agreement that may be allowable under a law described in subsection (c) that limits the use of a plant, plant variety, plant germplasm, or other biological material for research, breeding, experimentation, seed saving, or propagation may be enforced.

"(2) APPLICATION.—

"(A) IN GENERAL.—Paragraph (1) shall apply to—

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

"(ii) any contractual obligation or agreement entered into on or after the date of enactment of this section.

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

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

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

"(2) Chapter 15 of title 35, United States Code (commonly known as the 'Plant Patent Act of 1930').".

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

"Sec. 33A. Limitation on intellectual property protection for plants.".