

118TH CONGRESS
1ST SESSION

S. 2199

To amend the Agricultural Marketing Act of 1946 to establish a pollinator-friendly plant labeling program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2023

Mr. MERKLEY (for himself, Mr. WYDEN, Mr. HEINRICH, Mr. WELCH, Mr. PADILLA, Mr. BLUMENTHAL, Mrs. FEINSTEIN, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Agricultural Marketing Act of 1946 to establish a pollinator-friendly plant labeling program, 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 “Pollinator-Friendly
5 Plant Labeling Act”.

1 **SEC. 2. POLLINATOR-FRIENDLY PLANT LABELING PRO-**
 2 **GRAM.**

3 Subtitle A of the Agricultural Marketing Act of 1946
 4 (7 U.S.C. 1621 et seq.) is amended by adding at the end
 5 the following:

6 **“SEC. 210B. POLLINATOR-FRIENDLY PLANT LABELING PRO-**
 7 **GRAM.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) PESTICIDE.—The term ‘pesticide’ has the
 10 meaning given the term in section 2103 of the Or-
 11 ganic Foods Production Act of 1990 (7 U.S.C.
 12 6502).

13 “(2) PRODUCER.—The term ‘producer’ means a
 14 nursery or farmer growing a plant or cultivating a
 15 seed for sale.

16 “(3) SECRETARY.—The term ‘Secretary’ means
 17 the Secretary of Agriculture.

18 “(b) ESTABLISHMENT.—The Secretary shall estab-
 19 lish a certification program for producers of pollinator-
 20 friendly plants.

21 “(c) CERTIFICATION.—

22 “(1) APPLICATIONS.—To be certified under this
 23 section, a producer may voluntarily submit to the
 24 Secretary an application for the certification.

1 “(2) APPROVAL.—The Secretary shall approve
 2 an application for certification submitted under
 3 paragraph (1) if the producer—

4 “(3) meets the requirements under this section;
 5 and

6 “(4) has been third-party certified.

7 “(d) ELIGIBILITY.—To be sold or labeled as a ‘USDA
 8 pollinator-friendly’ plant, a plant—

9 “(1) shall be living;

10 “(2) shall be, as determined by the Chief of the
 11 Natural Resources Conservation Service—

12 “(A) native to the United States; and

13 “(B) known to be beneficial to pollinators,
 14 including providing habitat and forage for polli-
 15 nators; and

16 “(3) may not have been produced using any
 17 pesticide or substance (within the meaning of the
 18 term in the Organic Foods Production Act of 1990
 19 (7 U.S.C. 6501 et seq.)) that may not be used in the
 20 production or handling of organically produced agri-
 21 cultural products under that Act.

22 “(e) COMPLIANCE REQUIREMENTS.—

23 “(1) IN GENERAL.—A person may sell or label
 24 a plant as ‘USDA pollinator-friendly’ only if the
 25 plant meets the requirements under this section.

1 “(2) LABELING.—No person may affix a label
2 to, or provide other market information concerning,
3 a plant if the label or information implies, directly
4 or indirectly, that the plant is USDA pollinator-
5 friendly, except in accordance with this section.

6 “(f) LABELING.—A label affixed, or other market in-
7 formation provided, in accordance with subsection
8 (e)(2)—

9 “(1) shall indicate that the plant meets Depart-
10 ment of Agriculture standards for being pollinator-
11 friendly;

12 “(2) may incorporate the Department of Agri-
13 culture seal;

14 “(3) shall include the scientific name of the
15 plant and the common name of the plant, if any;

16 “(4) shall include the county or ecoregion that
17 the plant species is native to and locally adapted to;

18 “(5) shall include the name of the producer of
19 the plant;

20 “(6) shall include an instruction that distribu-
21 tors and retailers are not permitted to apply any
22 pesticide product to the plant;

23 “(7) shall include a statement relating to the
24 importance of supporting pollinator conservation ef-
25 forts; and

1 “(8) may include—

2 “(A) instructions for planting and main-
3 taining the plant to ensure its effectiveness as
4 a resource for pollinators;

5 “(B) advice on protecting pollinators vis-
6 iting the plant from pesticide exposure; and

7 “(C) a weblink or digital code, such as a
8 quick response (QR) code, to access a webpage
9 with additional educational information about
10 the plant.

11 “(g) INVESTIGATIONS AND ENFORCEMENT.—Sub-
12 sections (b) and (c) of section 2120 of the Organic Foods
13 Production Act of 1990 (7 U.S.C. 6519) shall apply to
14 this section in the same manner that those subsections
15 apply to that Act (7 U.S.C. 6501 et seq.).

16 “(h) EFFECT.—Nothing in this section supersedes or
17 otherwise affects any State or Federal plant protection or
18 plant quarantine program.”.

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