

118TH CONGRESS
1ST SESSION

S. 678

To amend the Sherman Act to make oil-producing and exporting cartels illegal.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2023

Mr. GRASSLEY (for himself, Ms. KLOBUCHAR, Mr. LEE, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Sherman Act to make oil-producing and exporting cartels illegal.

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 “No Oil Producing and
5 Exporting Cartels Act of 2023” or “NOPEC”.

6 **SEC. 2. SHERMAN ACT.**

7 The Sherman Act (15 U.S.C. 1 et seq.) is amended
8 by adding after section 7 the following:

1 **“SEC. 7A. OIL PRODUCING CARTELS.**

2 “(a) IN GENERAL.—It shall be illegal and a violation
3 of this Act for any foreign state, or any instrumentality
4 or agent of any foreign state, to act collectively or in com-
5 bination with any other foreign state, any instrumentality
6 or agent of any other foreign state, or any other person,
7 whether by cartel or any other association or form of co-
8 operation or joint action—

9 “(1) to limit the production or distribution of
10 oil, natural gas, or any other petroleum product;

11 “(2) to set or maintain the price of oil, natural
12 gas, or any petroleum product; or

13 “(3) to otherwise take any action in restraint of
14 trade for oil, natural gas, or any petroleum product,
15 when such action, combination, or collective action has a
16 direct, substantial, and reasonably foreseeable effect on
17 the market, supply, price, or distribution of oil, natural
18 gas, or other petroleum product in the United States.

19 “(b) INAPPLICABILITY OF DEFENSES.—No court of
20 the United States shall decline, based on the act of state,
21 foreign sovereign compulsion, or political question doctrine
22 to make a determination on the merits in an action
23 brought under this section.

24 “(c) ENFORCEMENT.—The Attorney General of the
25 United States shall have the sole authority to bring an
26 action to enforce this section. Any such action shall be

1 brought in any district court of the United States as pro-
 2 vided under the antitrust laws.”.

3 **SEC. 3. NO SOVEREIGN IMMUNITY IN OIL CARTEL CASES.**

4 Title 28, United States Code, is amended—

5 (1) in section 1605(a)—

6 (A) in paragraph (5), by striking “or”
 7 after the semicolon;

8 (B) in paragraph (6), by striking the pe-
 9 riod and inserting “; or”; and

10 (C) by adding at the end the following:

11 “(7) in which the action is brought under sec-
 12 tion 7A of the Sherman Act.”; and

13 (2) in section 1610(a)—

14 (A) in paragraph (7) by striking the period
 15 at the end and inserting “, or”; and

16 (B) by adding at the end the following:

17 “(8) the judgment relates to a claim that is
 18 brought under section 7A of the Sherman Act.”.

19 **SEC. 4. SEVERABILITY.**

20 If any provision of this Act (or of an amendment
 21 made by this Act) is held invalid, the remainder of this
 22 Act (or of the amendment) shall not be affected thereby.

○