

119TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To prohibit the use of Federal funds to implement the Executive order entitled “Promoting the National Defense by Ensuring an Adequate Supply of Elemental Phosphorus and Glyphosate-Based Herbicides”, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. HEINRICH (for himself, Mr. BOOKER, Mr. MARKEY, Mr. MERKLEY, and Mr. WELCH) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To prohibit the use of Federal funds to implement the Executive order entitled “Promoting the National Defense by Ensuring an Adequate Supply of Elemental Phosphorus and Glyphosate-Based Herbicides”, 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 “No Immunity for  
5 Glyphosate Act”.

1 **SEC. 2. PROHIBITION ON USE OF FUNDS FOR EXECUTIVE**  
2 **ORDER RELATING TO PHOSPHORUS AND**  
3 **GLYPHOSATE-BASED HERBICIDES.**

4 No Federal funds may be obligated or expended to  
5 implement, administer, or enforce Executive Order 14387  
6 (91 Fed. Reg. 8703; relating to promoting the national  
7 defense by ensuring an adequate supply of elemental phos-  
8 phorus and glyphosate-based herbicides).

9 **SEC. 3. NO IMMUNITIES FOR GLYPHOSATE MANUFACTUR-**  
10 **ERS.**

11 (a) CAUSE OF ACTION.—Any person, or the estate,  
12 survivors, or legal representative of such person, who suf-  
13 fers or has suffered physical injury, illness, disease, or  
14 death caused, in whole or in part, by exposure to elemental  
15 phosphorus or a glyphosate-based herbicide manufactured,  
16 distributed, sold, or supplied within the United States,  
17 may bring a civil action in an appropriate district court  
18 of the United States against any covered entity.

19 (b) COVERED ENTITIES.—For purposes of this sec-  
20 tion, the term “covered entity” means any person, cor-  
21 poration, partnership, association, contractor, subcon-  
22 tractor, or other entity that manufactures, distributes, for-  
23 mulates, supplies, or sells elemental phosphorus or  
24 glyphosate-based herbicides.

25 (c) JURISDICTION.—The district courts of the United  
26 States shall have jurisdiction over any civil action arising

1 under this section without regard to the amount in con-  
2 troversy or the citizenship of the parties.

3 (d) RELIEF.—In a civil action under this section, the  
4 court may award—

5 (1) compensatory damages, including damages  
6 for medical expenses, lost income, pain and suf-  
7 fering, and wrongful death;

8 (2) punitive damages;

9 (3) equitable relief, including declaratory and  
10 injunctive relief; and

11 (4) attorney's fees and costs.

12 (e) WAIVER AND NULLIFICATION OF IMMUNITY.—  
13 Notwithstanding section 707 of the Defense Production  
14 Act of 1950 (50 U.S.C. 4557) or any other provision of  
15 law, no covered entity shall be immune from civil liability  
16 under Federal or State law for injury, illness, disease, or  
17 death caused by exposure to elemental phosphorus or  
18 glyphosate-based herbicides.

19 (f) NO FEDERAL CONTRACTOR DEFENSE.—Notwith-  
20 standing any other provision of Federal law, including any  
21 doctrine of Federal contractor immunity or preemption,  
22 no covered entity may assert as a defense to liability in  
23 any action brought under this section, or under any other  
24 Federal or State law, that the manufacture, formulation,  
25 distribution, sale, or supply of elemental phosphorus or a

1 glyphosate-based herbicide was conducted in compliance  
2 with, or pursuant to, an Executive order, regulation, direc-  
3 tive, contract, or other authorization issued under the De-  
4 fense Production Act of 1950 (50 U.S.C. 4501 et seq.),  
5 or any other Federal law, regulation, or authority.

6 (g) PRESERVATION OF EXISTING AND PENDING  
7 CLAIMS.—Nothing in this Act shall be construed to—

8 (1) preempt, displace, or otherwise limit any  
9 civil action authorized under Federal or State law;  
10 or

11 (2) require dismissal of, or otherwise adversely  
12 affect, any civil action pending on or before the date  
13 of enactment of this Act.

14 (h) APPLICABILITY.—This section shall apply to any  
15 claim arising before, on, or after the date of enactment  
16 of this Act.

17 (i) NON-PREEMPTION OF STATE LAW.—Nothing in  
18 this section shall be construed to preempt, displace, or  
19 limit any right or remedy available under State law.