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## **MARKETPLACE FAIRNESS ACT**

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### Issue:

The businesses that line the streets of our nation’s small and rural towns provide essential goods and services to the farmers and ranchers who work the fields that surround them. But hometown businesses are at a disadvantage when they compete with online only retailers that don’t have to collect sales taxes. When this disadvantage causes a “main street” business to close or scale back, the impact is especially hurtful to already struggling small and rural towns.

In addition to placing local merchants at a disadvantage, the disparity deprives state and local governments of the tax revenue they need to provide essential services. Since local governments and schools rely heavily on property taxes for funding, when sales tax revenues decline they often turn to property taxes to make up the difference. For land-based businesses like farming and ranching, this is particularly onerous.

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### Background:

The Commerce Clause of the Constitution gives the federal government power to regulate interstate commerce and prohibits certain state actions that interfere with trade among the states. In 1992, the Supreme Court ruled, in *Quill Corp. v. North Dakota* (Quill), that out-of-state sellers can only be required to collect sales tax if they have a store or other physical presence in the customer’s state.

As a result of Quill, 44 states responded by working with local governments and the business community to adopt a comprehensive interstate system to harmonize and simplify their sales tax rules and administrative requirements called the Streamlined Sales and Use Tax Agreement. To date, 24 states have changed their laws to comply with this interstate agreement. The Quill decision made it clear Congress would need to authorize and sanction such an agreement.

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### Legislative Status:

Bipartisan legislation has been introduced in the House and Senate to promote fair competition between local, i.e. main street, retailers and internet-only sellers. S. 976, The Marketplace Fairness Act, was introduced by Sens. Mike Enzi (R-Wyo.), Richard Durbin (D-Ill.), Lamar Alexander (R-Tenn.), Heidi Heitkamp (D-N.D.), Elizabeth Warren (D-Mass.), Jack Reed (D-R.I.), Sheldon Whitehouse (D-R.I.), Mark Warner (D-Va.), Benjamin Cardin (D-Md.), Tim Kaine (D-Va.), Edward Markey (D-Mass.), Roy Blunt (R-Mo.), Mike Rounds (R-S.D.), Tammy Duckworth (D-Ill.), and Susan Collins (R-Maine). The House bill, H.R. 2193, The Remote Transactions Parity Act, was introduced by Reps. Kristi Noem (R-S.D.), Steve Womack (R-Ark.), Jason Chaffetz (R-Utah), Steve Stivers (R-Ohio), Lou Barletta (R-Pa.), John Conyers (D-Mich.), Jackie Speier (D-Calif.), Suzan DelBene (D-Wash.), Peter Welch (D-Vt.), and David Cicilline (D-R.I.).

The legislation creates a destination-based collection system for sales tax when the vendor and customer live in different states. Using the system, states are able to enforce their existing sales tax laws but not to create new taxes or increase existing ones. The sales tax due is based on the rate in the location where the buyer receives the product. The bill provides an exemption for small sellers and requires that software for collecting the tax be provided to ease the administration burden.

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AFBF Policy:

Farm Bureau supports allowing the collection of sales taxes on internet sales of consumer goods by out-of-state sellers. Farm Bureau supports S. 976 and H.R. 2193.

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