No. 24-1068

In the Supreme Court of the United States

MONSANTO COMPANY,
Petitioner,

v.

JOHN L. DURNELL,
Respondent.

On Writ of Certiorari to the Court of Appeals of Missouri

Brief *Amicus Curiae* of the Farm Bureau Organizations of California, Florida, Kansas, Ohio, Oklahoma, Oregon, Missouri, North Carolina, Tennessee, Texas, and Virginia, the Indiana Agricultural Law Foundation, and the North Carolina Chamber Legal Institute in Support of Petitioner and Reversal

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INTEREST OF THE AMICI*

Amici are the farm bureau organizations of California, Florida, Kansas, Ohio, Oklahoma, Oregon, Missouri, North Carolina, Tennessee, Texas, and Virginia, the Indiana Agricultural Law Foundation, and the North Carolina Chamber Legal Institute. They represent hundreds of thousands of farm families living and working throughout the United States. Amici's members raise livestock and produce a diverse array of crops, including soybeans, corn, potatoes, tree nuts (like pistachios and almonds), fruits (like apples, blueberries, melons, and citrus), and cotton. Together, they are responsible for more than 40% of America's agricultural production, which in 2024 reached almost $600 billion.

Amici's members depend on modern farming techniques and technologies to operate more efficiently, more safely, and more environmentally friendly than in decades past. According to the U.S. Department of Agriculture, American farms *tripled* their output in the 70 years from 1948 to 2017—and they did so even as labor and land inputs declined by 76% and 28%, respectively. These stunning advances in efficient food production, which have been essential to meeting the world's ever-growing food demands and protecting America's position as a dominant food producer, simply would not be possible without pesticides like glyphosate.

Amici's members have depended for longer than a century on the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and its predecessor statutes to ensure a safe and reliable supply of various pesticides

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* No counsel for a party authored this brief in whole or in part. No person other than *amici* and their counsel made a monetary contribution to the preparation or submission of this brief.

for use on American farms. Without uniform federal regulation, a patchwork of variable state rules for safety and labeling would make it impossible for manufacturers like Monsanto to bring essential products like Roundup to market.

Against this backdrop, amici have a clear and substantial interest in the outcome of this case. Amici's members (and their families and employees) work with glyphosate daily. They submit this brief to ensure that the Court is fully informed concerning the importance of glyphosate to American farming practices and their support for its widespread availability and use. And as the parties whose "local" interests are so often invoked by litigants as a reason for resisting preemption, they explain and defend the consistency of a reversal in this case with the Founding Era views concerning federalism and interstate commerce.

INTRODUCTION AND SUMMARY OF ARGUMENT

Questions of federal preemption often are cast as a clash between the remote federal interests on the one hand and local state interests on the other. That theme is out of place here. By a wide margin, the interests that would be hurt most by an anti-preemption holding in this case would be the state and local agricultural interests that depend on a reliable supply of crop-protecting and yield-enhancing products like Roundup. Vigorous enforcement of preemption in this case would, moreover, respect the Nation's federalist scheme and Founding Era history, whereas the decision below does not.

A.1. Agricultural operations all across the U.S. depend on herbicides, especially glyphosate. Prior to the introduction of modern pesticides in the early twentieth century, the vulnerability of crop production to pests

and blight presented enormous risk to populations across the globe. The Great Famine of Ireland in the mid-nineteenth century is a relatively recent example. With modern pesticides at hand, it very likely could have been prevented, saving one million lives and immeasurable suffering.

In modern use, herbicides allow for highly efficient weed control. Weeds steal sunlight, water, nutrients, and space from crops, presenting the greatest threat to crop yield in both developing and developed countries. If left uncontrolled, they can result in 100% crop loss. Glyphosate has been particularly successful in agricultural applications because Monsanto has developed a number of glyphosate-resistant crop seeds, obviating the need for selective application. It is so effective and efficient that its use has single-handedly increased worldwide farm income by nearly $7 billion annually, half of which falls into in the pockets of American farmers.

2. If state-law failure-to-warn lawsuits like this one are allowed to proceed, Monsanto very likely will have to withdraw Roundup from the domestic market altogether, as it already has done in the consumer market. That is so for two reasons. First, if recent experience in the consumer market is any guide, it is likely to confront substantial liabilities in state tort actions, and as a consequence, face a constantly shifting, inefficient regulatory landscape. Operating in such an environment is infeasible on its own. Second, even if Monsanto could weather those headwinds in isolation, it would be unable to compete with Chinese and Indian manufacturers, who are effectively judgment-proof. Foreign makers of glyphosate will not bear either the direct costs of adverse tort judgments or the inefficiencies of having to comply with state tort law. The domestic market inevitably will turn to less expensive foreign producers, giving extraor-

dinarily concerning leverage over the American food supply to foreign adversaries.

B. Against this background, Congress's decision to ensure a single, uniform federal scheme of regulation for labels and warnings on pesticides makes sense. It is also consistent with constitutional first principles. When the ratifying States granted Congress power to regulate interstate commerce, they were as much denying the power to regulate to themselves as conferring power to regulate on the federal government.

The through line from the Founding Generation to the Court's most recent Commerce Clause cases is the consistent recognition that the States retain power to regulate conduct within their borders, but lack power to regulate conduct in ways that override federal judgments in interstate markets or effectively project parochial policy decisions beyond their own borders. That is what FIFRA's preemption clause aims to do, by providing for uniform federal regulation of pesticide labeling standards and foreclosing state regulation of the same. It is thus consistent with and respects the federalist constitutional design.

C. Respondent's contrary view is not only out of step with these basic facts and principles, but it is limitless in its worrying consequences. First, because it is not feasible to label and market products in different ways state-by-state, Monsanto would have to conform to the most demanding state-law requirements that a state-court jury might impose, jettisoning the notion that one State may not project its regulatory power beyond its own borders. Second, nothing in respondent's theory is limited to Roundup. If the Court were to rule for respondent, every other fungicide, insecticide, and herbicide used on American farms would be subjected to the same regulation-by-local-jury. And finally, nothing in

respondent's theory is limited to FIFRA's preemption clause. Amici and their members are consumers of Roundup, but they are producers of meat and poultry products, which are likewise subject to federal labeling approval schemes coupled with preemption clauses. If respondent is free to impose state tort liability on Monsanto in this case, amici's members likewise will face the risk of failure-to-warn suits across the board. These results are impractical to the point of absurdity. The decision below should be reversed.

ARGUMENT

A. A decision upholding the judgment below would be terrible for American agriculture

1. Agricultural operations depend on herbicides like glyphosate

This is a case about "pesticides" and "herbicides," which are undeniably loaded terms. They call to mind glass bottles with cartoonish labels bearing a skull and cross-bones, as though they were deadly poisons to all. *Cf.* Michael Grunwald, *Spraying Roundup on Crops is Fine. Really.*, N.Y. Times (Sept. 28, 2025) ("Glyphosate just sounds like nasty stuff."). Nothing could be further from the truth. In fact, herbicides like glyphosate (the active compound in Roundup) have been proven safe for use in agriculture time and again. And they are responsible for *greatly* increasing the productivity and safety of American farms over the past half-century.

Glyphosate protects crop production, keeping food on American tables and tables across the world. It is no exaggeration to say that, without ready access to modern pesticides like glyphosate, the availability of sufficient food to feed the planet's 8.3 billion inhabitants would be in serious doubt.

a. Prior to the introduction of modern pesticides in the early twentieth century, periodic crop blights historically ravaged agriculture production, leading to hunger and misery. For example, Ireland's Great Famine (also known as the Great Hunger) spanned the mid-1840s and early 1850s. It killed one million people and resulted in a massive migration from the country, reducing Ireland's population by more than 20% over just a seven year period. Graham A. Matthews, *A History of Pesticides*, vix (2018). The cause of the famine was a "disease potato blight" that easily could have been prevented had only a modern fungicide been available. *Ibid.*

In another example, "the arrival of the boll weevil" in the southern United States in the 1890s "had a major impact on cotton production" at the time. *Ibid.* "From Texas, boll weevils spread northwards very rapidly, reaching Arkansas and Mississippi in 1907; and by 1922, 85% of the cotton growing area was affected." *Ibid.* "In the absence of suitable insecticides," damage to the crop in Texas alone in a single year "was conservatively estimated at $15 million," which is the equivalent of more than half a billion dollars today. *Ibid.*

Less dramatic, but surely more important in day-to-day agriculture, is simple weed control. "In general, weeds present the highest potential yield loss to crops" in "both developing and developed countries." Bhagirath Singh Chauhan, *Grand Challenges in Weed Management*, 1 Frontiers in Agronomy 1, 1 (2020). "Weeds," which are any unwanted plan in a growing field, "compete with crops for sunlight, water, nutrients, and space," and "they harbor insects and pathogens." *Ibid.* Accord Sachin Kumar, et al., *Weed Management Challenges in Modern Agriculture: The Role of Environmental Factors and Fertilization Strategies*, 185 Crop Protection 1, 2 (2024) (weeds are any "unwanted

plants," and they "often outcompete crops for nutrients, light and water, thereby reducing crop yields and quality"). "Left uncontrolled, weeds can result in 100% yield loss." Chauhan, *Grand Challenges*, at 1.

Effective weed control is thus essential to crop farming. "Prior to the development of herbicides, one of the main tasks on farms was removing weeds from fields, [producing] a huge demand" for manual labor on farms. Matthews, *supra*, at xv. Indeed, around the time of the Civil War, a stunning "65% of the [American] population lived on farms to weed crops," even despite efforts like "rotating crops to new land in an attempt to reduce weeds." *Ibid.* (citing L.P. Gianessi and N.P. Reigner, *The Value of Herbicides in US Crop Production*, 21 Weed Technology 559-566 (2007)).

Not only are manual efforts to control weeds highly inefficient, but they also inhibit crop yields in other ways and are harmful to the environment. For example, intensive tilling kills soil microbes, which are vital for nutrient cycling, decomposing crop residue, and promoting plant growth. See *Understanding and Managing Soil Microbes*, Pennsylvania State University College of Agricultural Sciences (April 22, 2021), perma.cc/5DEM-WJ7U. And repeated soil tillage poses a heightened risk of "soil erosion, nutrient runoff into nearby waterways, and the release of greenhouse gases into the atmosphere." Steven Wallander, U.S. Department of Agriculture, *Crop & Livestock Practices—Soil Tillage and Crop Rotation* (Jan. 8, 2025), perma.cc/WH7E-RHCW.

b. Everything changed with "the rapid adoption of herbicides in the 1950s," allowing for greatly more efficient and effective weed control and crop cultivation, "reducing production costs and increasing yields" almost exponentially. Matthews, *supra*, at xv.

Roundup, first marketed by Monsanto in the mid-1970s, has been the most important herbicide to American farming in the time since. "Glyphosate is appealing to farmers because it is inexpensive, easy to use, kills a broad spectrum of weeds, and breaks down quickly in the environment." Eva Greenthal et al., *In the Weeds: Understanding the Impact of GE Crops on Pesticide Use* 4 (Apr. 2021), perma.cc/3T87-PYWJ. "It also has significantly lower acute and chronic toxicity than many other herbicides on the market." *Ibid.* And its introduction has substantially increased no-till acreage throughout the Nation, reducing erosion and improving soil retention in erosion-prone areas. See Mike Lessiter & Frank Lessiter, *Timeline of the No-Till Revolution* (Jan. 10, 2022), perma.cc/93ZB-6CVU.

Glyphosate has been particularly successful in agricultural applications because Monsanto has developed a number of glyphosate-resistant crop seeds, "allow[ing] for the 'over the top' spraying * * * that target[s] both grass and broadleaved weeds but does not harm the crop itself." Graham Brookes, et al., *The Contribution of Glyphosate to Agriculture and Potential Impact of Restrictions on Use at the Global Level*, 8 GM Crops & Food 216, 217 (2017). So effective and efficient is glyphosate that its broad-based use increased worldwide farm income between 1996 and 2015 by nearly $70 billion, including $6.76 billion worldwide (and $3.4 billion in the U.S.) in 2015 alone. *Id.* at 218.

2. Allowing suits like this one will push glyphosate production to China and India, imperiling America's domestic food supply

State-law failure-to-warn lawsuits like this one, if not brought in check by this Court (as Congress intended), will likely prompt Monsanto to withdraw Roundup from the domestic agricultural market altogether, as it

already has done in the domestic consumer market. But American farmers would continue—would *have* to continue—to use glyphosate by acquiring it from other manufacturers.

Monsanto's exit from the domestic market would be likely for two reasons. First, and as the Court already has recognized, allowing "50 different labeling regimes prescribing the color, font size, and wording of warnings * * * would create significant inefficiencies for manufacturers" and deprive them of the "uniformity" they "need" to operate. *Bates v. Dow Agrosciences LLC*, 544 U.S. 431, 452 & n.26 (2005). In other words, domestic manufacturers would simply not be able to produce glyphosate subject to jurisdiction-by-jurisdiction labeling requirements, with the threat of eight-, nine-, and ten-figure liabilities for a single slip up.

Second, the only other major producers of glyphosate are located abroad. They include Zhejiang Wynca Chemical, Syngenta Group, Nantong Jiangshan, and Jiangsu Yangnong (each a Chinese manufacturer) and UPL Limited (an Indian manufacturer). If the Court does not reverse the judgment below, these foreign manufacturers will easily out-compete Monsanto domestically, effectively pushing all production to these overseas locations in Asia. That is because Monsanto would be subject to suit in state court and, in the event of an adverse judgment, would see its assets attached under the Full Faith and Credit Clause. Foreign manufacturers from China and India, in contrast, would be effectively judgment-proof, operating free from the potentially massive litigation and judgment costs imposed on Monsanto. See, *e.g.*, Jason Hsu, *Judgment Unenforceability in China*, 19 Fordham L. J. 201, 203, 216-217 (2013) (noting that it is "notoriously difficult" to collect on judgments in U.S. courts against companies based in China, and de-

scribing several suits against Chinese companies in which the plaintiffs were never able to collect their judgments).

Thus, whereas Monsanto would have to satisfy adverse judgments in state-court failure-to-warn cases against it, Chinese manufacturers would not. Foreign makers would be able to offer their products at substantially lower prices, and rational consumers (farmers) would cease buying from Monsanto, which inevitably would have to withdraw from the market. Farmers would be left with just one option: to buy from Chinese and Indian producers. Given the critical importance of glyphosate to agricultural production, this shift in market power would give China and India enormous leverage over the American food supply.

For just these reasons, the President recently issued an executive order finding that "[l]ack of access to glyphosate-based herbicides would critically jeopardize agricultural productivity, adding pressure to the domestic food system, and * * * would * * * make it untenable for [farmers] to meet growing food and feed demands" in the United States. *Exec. Order: Promoting the National Defense by Ensuring an Adequate Supply of Elemental Phosphorus and Glyphosate-Based Herbicides* (Feb. 18, 2026), perma.cc/PY4N-EH5J. "Ensuring an adequate supply of elemental phosphorus and glyphosate-based herbicides is thus crucial to the national security and defense, including food-supply security, which is essential to protecting the health and safety of Americans." *Ibid.* The order thus directs the Secretary of Agriculture to take concrete steps to "ensur[e] a continued and adequate supply of elemental phosphorus and glyphosate-based herbicides." *Ibid.*

B. Robust enforcement of FIFRA's preemption clause respects the Nation's federalist scheme and Founding Era history

Against this background, it is not surprising that Congress adopted a robust preemption clause as part of FIFRA. The language of that clause must, of course, be interpreted and applied according to its terms, bringing to bear all the traditional rules of statutory construction. As the Court undertakes that task, it nonetheless bears emphasis that Congress's protection of the national market in this case finds strong footing, not only in the text of FIFRA, but also in the general principles underlying the Commerce Clause. That is to say, preemption here is entirely consistent with constitutional first principles and Founding Era notions of the proper balance of federal and state power.

FIFRA specifies that pesticide manufacturers may not use labels that "bear any statement * * * which is false or misleading in any particular," including when the label "does not contain a warning or caution statement which may be necessary and," if included, "is adequate to protect health and the environment." 7 U.S.C. § 136(q)(1)(A), (G). It provides further that a state law is preempted if it imposes "any requirements for labeling or packaging in addition to or different from" the requirements for labeling adopted by EPA pursuant to the Act. *Id.* § 136v(b).

The justification typically cited in support of express preemption clauses like this is the need to avoid "50 different labeling regimes prescribing the color, font size, and wording of warnings," which "would create significant inefficiencies for manufacturers." *Bates*, 544 U.S. at 452. *Cf. Rowe v. New Hampshire Motor Transportation Association*, 552 U.S. 364, 373 (2008) (holding that the FAAA "must pre-empt state regula-

tion" where otherwise it would "lead to [an inefficient] patchwork of state service-determining laws, rules, and regulations"); *Fort Halifax Packing Co. v. Coyne*, 482 U.S. 1, 11 (1987) (explaining that ERISA's preemption clause was adopted to avoid "a patchwork scheme of regulation" that otherwise "would introduce considerable inefficiencies"). But the patchwork concern that typically drives Congress to adopt such preemption clauses itself reflects a more basic point about the role of the States in regulation of interstate markets.

This Court has long recognized that the "entire Constitution was 'framed upon the theory that the peoples of the several states * * * are in union and not division,'" and that the Commerce Clause in particular reflects "special concern both with the maintenance of a national economic union" separate and apart from "the autonomy of the individual States within their respective spheres." *Healy v. Beer Institute*, 491 U.S. 324, 335–36 & n.12 (1989) (quoting *Baldwin v. G.A.F. Seelig, Inc.*, 294 U.S. 511, 523 (1935)). James Madison noted at the Founding that the "exercise of [commercial] power separately, by the States" and free from federal supervision "engendered rival, conflicting and angry regulations" under the Articles of Confederation. 3 Farrand (Madison) 547. That is to say, the "mischiefs" of protectionist State legislation occurred "from the want of Genl. Government over commerce." 2 The Records of the Federal Convention of 1787, at 441 (Max Farrand ed., rev. ed. 1937). Even prominent Anti-Federalists writing at the time of the Founding (including Samuel Adams and the pseudonymous Federal Farmer) agreed that, for this reason, the "powers of the union ought to be extended to commerce." 1 Letters from the Federal Farmer No. 6 (Dec. 25, 1787).

Understood from this historical perspective, the most important objective of the Commerce Clause was not so much to empower Congress to regulate, but to *dis*empower States from interfering in interstate markets subject to federal supervision. The Framers did this by giving Congress exclusive power to decide what goods and services could move across state lines and under what circumstances, denying this power to the States. Although States retained the power to regulate conduct wholly *within* their boundaries, they were stripped of authority to impose their will, either formally or in practice, on conduct outside their own borders.

Extending that theme, the Court has more recently confirmed that the Commerce Clause precludes a State from enacting legislation that has the practical effect of exporting that state's domestic policies. In *Edgar v. MITE*, 457 U.S. 624 (1982), four justices concurred in the striking down of an Illinois statute governing hostile takeovers by out-of-state corporations on the ground that the rule against state extraterritorial regulation under the Commerce Clause "precludes the application of a state statute to commerce that takes place wholly outside of the State's borders, whether or not the commerce has effects within the State." *Id.* at 642-643. Later in *Healy v. Beer Institute*, 491 U.S. 324 (1989), the Court stressed that "[t]he critical inquiry is whether the practical effect of the regulation is to control conduct beyond the boundaries of the State." *Id.* at 336.

The through line from James Madison to the Court's most recent opinion in *National Pork Producers Council v. Ross*, 598 U.S. 356 (2022), is consistent: The States retain power to regulate conduct within their borders, in which context regulatory experimentation is a virtue of federalism. But they lack power to regulate conduct in interstate commerce in ways that disrupt interstate

markets or effectively project parochial policy decisions beyond their own borders. That is a functional inquiry, not a formal one: "The basic principles of the Court's Commerce Clause jurisprudence are grounded in functional, marketplace dynamics." *South Dakota v. Wayfair*, 585 U.S. 162, 180 (2018).

In short, the principal purpose of the Commerce Clause was to empower Congress to accomplish exactly what FIFRA's preemption clause sets out to do: provide for uniform, evenhanded federal regulation of national markets by excluding state regulation of the same. Saying so is not to trammel States' rights, but to respect the constitutional design embraced since Ratification.†

C. Respondent's contrary position is limitless

Respondent sees it differently. He takes the position that juries may rely on state failure-to-warn laws to require warnings beyond what EPA mandates of manufacturers under FIFRA. And while he denies that a state jury's imposition of liability for failure-to-warn necessarily overrides EPA's judgment concerning the sufficiency of approved product labels, he insists (BIO 21) nevertheless that "FIFRA requires Monsanto to seek EPA approval for a modified Roundup label" to conform with his own theory of state-law liability.

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† A majority of the Members of this Court affirmed in *National Pork Producers Council* that "substantial burden[s] against interstate commerce" imposed by state or local laws are counter to the constitutional design. 598 U.S. at 395 (Roberts, C.J., joined by Alito, Kavanaugh, and Jackson, JJ., concurring in part and dissenting in part); *id.* at 391 (Sotomayor, J., joined by Kagan, J., concurring in part) (similar). Although a majority of the Court concluded that California's Proposition 12 does not violate the dormant Commerce Clause, the key distinction is that *National Pork Producers Council* did not involve an express preemption clause. This case does.

In other words, state-court juries may impose liability on manufacturers with respect to sales in interstate markets on the ground that they have labelled their products in a manner that, although consistent with federal standards and approved by EPA, falls short of state-law requirements. And having done so, it then falls to the defendant to obtain EPA's approval of a label update to accommodate the jury's judgment. That stunning position is limitless in every material respect.

To start, respondent appears not only to accept, but to *embrace* the patchwork-of-regulation problem. Many States inevitably will impose liability on failure-to-warn theories in varying circumstances, while others may eschew such liability altogether. In light of the interconnected nature of interstate commerce in the modern era, manufacturers like Monsanto will have no choice but to conform to the most demanding state-law requirements. Labeling and marketing products in variable ways, state-by-state simply is not feasible. *Bates*, 544 U.S. at 452. The end result would be a system of *state* rather than *federal* regulation, in serious tension with the maxim that no state may project its "regulatory regime into the jurisdiction of another State." *Healy*, 491 U.S. at 337.

Beyond that, nothing in respondent's theory is limited to Roundup, glyphosate, or any other substance. If respondent prevails in this case and farmers begin using alternative herbicides like paraquat (which is orders of magnitude more toxic to humans than glyphosate), the Court can rest well assured that the next case it sees will be a failure-to-warn suit against paraquat manufacturers. No product label approved by EPA under FIFRA will be safe from challenge as insufficient and inadequate under some applicable state-law tort regime.

Finally, amici's concern, and the concern of their members, is not just as consumers of glyphosate, but also as producers of meat and poultry products.

The Federal Meat Inspection Act requires that all meat products intended for human consumption, including from cattle, sheep, swine, and goats, must be inspected and passed by the USDA Food Safety and Inspection Service to ensure they are safe, wholesome, and truthfully labeled. 21 U.S.C. § 606(a). Using language materially the same as FIFRA's, the act in turn prohibits States from imposing any "[m]arking, labeling, packaging, or ingredient requirements in addition to, or different than, those made under this chapter." *Id.* § 678.

Much the same goes for the Egg Products Inspection Act, which requires that all packed, pasteurized, and inspected egg products display a label containing the product name, ingredients, net contents, official USDA inspection mark, and other information. 21 U.S.C. § 1036(a). Like the Meat Inspection Act and FIFRA, the Egg Inspection Act specifies further that "[l]abeling, packaging, or ingredient requirements, in addition to or different than those made under this chapter" and certain other federal standards "may not be imposed by any State or local jurisdiction, with respect to egg products processed at any official plant in accordance with the requirements under this chapter and such [other] Acts." *Id.* § 1052(b).

To take respondent's logic to its natural conclusion would mean that juries could impose state tort liability on farmers who comply with USDA labeling requirements if their labels nonetheless fail to disclose some datum that a plaintiff asserts is essential to her health and grocery shopping decisions—data such as whether beef is grass-fed, hormone-free, pasture-raised, or GMO-free. Once more, most producers would have no choice

but to conform to the most demanding state-law requirements, converting what is supposed to be a uniform system of federal regulations into a system of unpredictably fluctuating state-law tort standards.

None of this is tenable. Nor is it the law. Congress was clear with FIFRA that pesticide manufacturers must use EPA-approved labels, which contain the "warning or caution statement[s]" that agency judges to be "necessary" and "adequate to protect health and the environment." 7 U.S.C. § 136(q)(1)(A), (G). And a State's law is preempted if it imposes "any requirements for labeling or packaging in addition to or different from" those federal standards. *Id.* § 136v(b). Under that straightforward statutory scheme, no State may impose different or additional warning requirements, whether by tort law or administrative regulation. To do so is to replace uniform federal standards with varying state standards—precisely the outcome that Section 136v(b) was adopted to foreclose. The judgment below accordingly should be reversed.

CONCLUSION

The judgment of the Court of Appeals of Missouri should be reversed.

Respectfully submitted.

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