

State of Vermont Senate Chamber



Montpelier, Vermont

Joint Senate Resolution

By Senators Lyons, Ashe, Mullin, and Starr,

J.R.S. 31. Joint resolution expressing concern regarding the public policy implications of the proposed Trans-Pacific Partnership Agreement.

Whereas, the Trans-Pacific Partnership Agreement (TPPA) is a proposed multinational agreement which if implemented will be the largest trading bloc in the world, and

Whereas, the countries currently involved in the TPPA negotiations include Australia, Brunei Darussalam, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam, and the United States, and

Whereas, on April 24, 2013, President Obama notified Congress of his administration's intent to include Japan in the TPPA negotiations, and China and Korea could enter the TPPA at a later date, and

Whereas, the ability of Vermont and other states to regulate the environment, tobacco products, pharmaceuticals, the government procurement process, and to control the use of a state's name in consumer products could be inhibited under the TPPA, and

Whereas, in 1992, Congress amended the Natural Gas Act, Pub.L. No. 102-486, including 15 U.S.C. § 717b(c), and

Whereas, subsection 717b(c) provides, with respect to natural gas imports from, and exports to, a nation with which the United States has a free trade agreement, that applications for importation or exportation are to be granted "without modification or delay," and

Whereas, two of the TPPA's prospective members, Chile and Singapore, are importers of natural gas, and were Japan to join the TPPA, the amount of natural gas exported from the United States could rise significantly, and

Whereas, this new policy on exporting natural gas might result in increased fracking in this country to meet the TPPA nations' increased demand for natural gas, and

Whereas, according to a TPPA analysis from Georgetown Law's Harrison Institute for Public Law (Harrison Institute), if the TPPA follows the model of other free trade agreements, the threats to domestic control of tobacco regulations would include: (1) increased rights for foreign investors to challenge regulations outside domestic courts; (2) new rights to use elements of a tobacco product's trademarks; (3) expansion of the use of trade rules that limit regulation of tobacco-related services such as advertising, distribution, and display of products; and (4) new obligations to involve tobacco companies in policy-making, and

Whereas, the Office of the United States Trade Representative (USTR) is proposing that language be included in the general exceptions chapter of the TPPA that would permit health regulatory authorities in TPPA member nations to adopt tobacco regulations that are scientifically based and may be applied regardless of a tobacco product's country of origin, and

Whereas, the Harrison Institute's analysis finds that the USTR proposal is problematic because the proposed TPPA exception for health-related tobacco regulations would not cover: (1) statutory provisions; (2) enforcement of regulations adopted before the TPPA takes effect; (3) regulations that nonhealth regulatory authorities adopt; and (4) investment and trade rules that are currently being used to challenge tobacco controls, and

Whereas, potential clauses on pharmaceutical pricing could be problematic for the enforcement of the cost-containment provisions of Medicare, Medicaid, and the U.S. veterans' governmental health programs, and

Whereas, the TPPA could potentially restrict the ability of states to favor in-state producers or vendors in their procurement policies and limit the inclusion of environmental protection provisions as part of those policies, and

Whereas, the State of Vermont has placed great emphasis on protecting the use of the name Vermont on the State's products, including maple syrup, and

Whereas, the proposed Article 2:22 of the TPPA's intellectual property chapter would expand the right of product manufacturers to use place names, even if the product does not originate in that place, a policy that could be detrimental to the Vermont Attorney General's Statement of Origin Rule which has great importance for the national marketing of Vermont-produced products, and

Whereas, the USTR intends to complete TPPA negotiations as early as October 2013, which means Vermont and other states must express their concerns about the TPPA's public policy implications as soon as possible, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly requests the USTR to be cognizant of the concerns of the individual states and to promote positions in TPPA negotiations that would enable the states to retain their existing flexibility in matters pertaining to the regulation of the environment, tobacco, pharmaceutical pricing, and the use of place names in products, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the USTR and the Vermont Congressional Delegation.

President of the Senate

Attested to:

Speaker of the House

John H. Bloomer, Jr.
Secretary of the Senate

Date: _____