Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

BATES ET AL. *v.* DOW AGROSCIENCES LLC

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 03–388. Argued January 10, 2005—Decided April 27, 2005

Petitioner Texas peanut farmers allege that their crops were severely damaged by the application of respondent's (Dow) "Strongarm" pesticide, which the Environmental Protection Agency (EPA) registered pursuant to its authority under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Petitioners gave Dow notice of their intent to sue, claiming that Strongarm's label recommended its use in all peanut-growing areas when Dow knew or should have known that it would stunt the growth of peanuts in their soil, which had pH levels of at least 7.0. In response, Dow sought a declaratory judgment in the Federal District Court, asserting that FIFRA pre-empted petitioners' claims. Petitioners counterclaimed, raising several state-law claims sounding in strict liability, negligence, fraud, and breach of express warranty. The District Court rejected one claim on state-law grounds and found the others barred by FIFRA's pre-emption provision, 7 U. S. C. §136v(b). Affirming, the Fifth Circuit held that §136v(b) expressly pre-empted the state-law claims because a judgment against Dow would induce it to alter its product label.

Held:

1. Under FIFRA, which was comprehensively amended in 1972, a manufacturer must obtain permission to market a pesticide by submitting a proposed label and supporting data to EPA, which will register the pesticide if it is efficacious, it will not cause unreasonable adverse effects on humans and the environment, and its label complies with the statute's misbranding prohibition. A pesticide is "misbranded" if its label, for example, contains a statement that is "false or misleading," §136(q)(1)(A), or lacks adequate instructions or warnings, §§136(q)(1)(F), (G). A State may regulate the sale and use of federally registered pesticides to the extent that regulation does not

permit any sales or uses prohibited by FIFRA, §136v(a), but "[s]uch State shall not impose or continue in effect any requirements for labeling or packaging in addition to or different from those required under [FIFRA]," §136v(b). Though tort litigation against pesticide manufacturers was a common feature of the legal landscape in 1972, after this Court held in *Cipollone* v. *Liggett Group, Inc.,* 505 U. S. 504, that the term "requirement" in the Public Health Cigarette Smoking Act of 1969 included common-law duties, and therefore preempted certain tort claims against cigarette companies, courts began holding that §136v(b) pre-empted claims such as petitioners'. Pp. 4–9.

2. FIFRA's pre-emption provision applies only to state-law "requirements for labeling or packaging." §136v(b). While the Fifth Circuit was correct that "requirements" embraces both positive enactments and common-law duties, it erred in supposing that petitioners' defective design, defective manufacture, negligent testing, and breach of express warranty claims were premised on requirements for *labeling or packaging.* None of the common-law rules upon which these claims are based requires that manufacturers label or package their products in any particular way. The Fifth Circuit reached a contrary conclusion by reasoning that a finding of liability on these claims would induce Dow to alter its label. This was error because the prohibitions of §136v(b) apply only to "requirements." A requirement is a rule of law that must be obeyed; an event, such as a jury verdict, that merely motives an optional decision is not a requirement. The proper inquiry calls for an examination of the elements of the common-law duty at issue, not for speculation as to whether a jury verdict will prompt the manufacturer to change its label. Pp. 9–13.

3. Petitioners' fraud and negligent-failure-to-warn claims, by contrast, are based on common-law rules that qualify as "requirements for labeling or packaging," since these rules set a standard for a product's labeling that Dow is alleged to have violated. While these common-law rules are subject to §136v(b), it does not automatically follow that they are pre-empted. Unlike the pre-emption clause in *Cipollone,* §136v(b) prohibits only state-law labeling requirements that are "in addition to or different from" FIFRA's labeling requirements. Thus, §136v(b) pre-empts any statutory or common-law rule that would impose a labeling requirement that diverges from those set out in FIFRA and its implementing regulations. It does not preempt a state-law requirement that is equivalent to, and fully consistent with, FIFRA's labeling standards. This "parallel requirements" reading of §136v(b) finds strong support in *Medtronic, Inc.* v. *Lohr,* 518 U. S. 470. Thus, although FIFRA does not provide a federal rem-

edy to those injured as a result of a manufacturer's violation of FIFRA's labeling requirements, nothing in §136v(b) precludes States from providing such a remedy. Dow's contrary reading of §136v(b) fails to make sense of the phrase "in addition to or different from." Even if Dow offered a plausible alternative reading of §136v(b), this Court would have a duty to accept the reading disfavoring pre-emption. See *New York State Conference of Blue Cross & Blue Shield Plans* v. *Travelers Ins. Co.,* 514 U. S. 645, 655. The long history of tort litigation against manufacturers of poisonous substances adds force to the presumption against pre-emption, for Congress surely would have expressed its intention more clearly if it had meant to deprive injured parties of a long available form of compensation. Moreover, this history emphasizes the importance of providing an incentive to manufacturers to use the utmost care in distributing inherently dangerous items. Finally, the policy objections raised against this Court's reading of §136v(b) are unpersuasive. Pp. 13–20.

4. Under the "parallel requirements" reading of §136v(b), a state-law labeling requirement must be equivalent to its federal counterpart to avoid pre-emption. State law need not, however, explicitly incorporate FIFRA's standards as an element of a cause of action. Because this Court has not received sufficient briefing on whether the Texas law governing petitioners' fraud and failure-to-warn claims is equivalent to FIFRA's misbranding standards and any relevant regulations, it is up to the Fifth Circuit to resolve the issue in the first instance. Pp. 20–21.

332 F. 3d 323, vacated and remanded.

STEVENS, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, KENNEDY, SOUTER, GINSBURG, and BREYER, JJ., joined. BREYER, J., filed a concurring opinion. THOMAS, J., filed an opinion concurring in the judgment in part and dissenting in part, in which SCALIA, J., joined.