

117<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3125

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## AN ACT

To enhance authorities under the Defense Production Act of 1950 to respond to the COVID–19 emergency, to provide additional oversight of such authorities, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “COVID–19 Emergency  
3 Medical Supplies Enhancement Act of 2021”.

4 **SEC. 2. DETERMINATION ON EMERGENCY SUPPLIES AND**  
5 **OTHER PUBLIC HEALTH EMERGENCIES.**

6 (a) COVID–19 PANDEMIC RESPONSE.—For the pur-  
7 poses of section 101 of the Defense Production Act of  
8 1950 (50 U.S.C. 4511), the following materials may be  
9 deemed by the President, during the COVID–19 emer-  
10 gency period, to be scarce and critical materials essential  
11 to the national defense and otherwise meet the require-  
12 ments of section 101(b) of such Act, and funds available  
13 to implement such Act may be used for the purchase, pro-  
14 duction (including the construction, repair, and retro-  
15 fitting of government-owned facilities as necessary), or  
16 distribution of such materials:

17 (1) In vitro diagnostic products (as defined in  
18 section 809.3(a) of title 21, Code of Federal Regula-  
19 tions) for the detection of SARS–CoV–2 or the diag-  
20 nosis of the virus that causes COVID–19, and the  
21 reagents and other materials necessary for pro-  
22 ducing, conducting, or administering such products,  
23 and the machinery, equipment, laboratory capacity,  
24 or other technology necessary to produce such prod-  
25 ucts.

1           (2) Face masks and personal protective equip-  
2           ment, including non-surgical isolation gowns, face  
3           shields, nitrile gloves, N-95 filtering facepiece res-  
4           pirators, and any other masks or equipment (includ-  
5           ing durable medical equipment) determined by the  
6           Secretary of Health and Human Services to be need-  
7           ed to respond to the COVID-19 pandemic, and the  
8           materials, machinery, additional manufacturing lines  
9           or facilities, or other technology necessary to  
10          produce such equipment.

11          (3) Drugs and devices (as those terms are de-  
12          fined in the Federal Food, Drug, and Cosmetic Act  
13          (21 U.S.C. 301 et seq.)) and biological products (as  
14          that term is defined by section 351 of the Public  
15          Health Service Act (42 U.S.C. 262)) that are ap-  
16          proved, cleared, licensed, or authorized under either  
17          of such Acts for use in treating or preventing  
18          COVID-19 and symptoms related to COVID-19,  
19          and any materials, manufacturing machinery, addi-  
20          tional manufacturing or fill-finish lines or facilities,  
21          technology, or equipment (including durable medical  
22          equipment) necessary to produce or use such drugs,  
23          biological products, or devices (including syringes,  
24          vials, or other supplies or equipment related to deliv-  
25          ery, distribution, or administration).



1 local, or Tribal government that are scheduled to be  
2 delivered within 15 days of the time at which—

3 (A) the purchase order or contract by the  
4 Federal Government for such materials is  
5 made; or

6 (B) the materials are otherwise allocated  
7 by the Federal Government under the authori-  
8 ties contained in such Act; and

9 (2) shall, within 24 hours of any exercise of the  
10 prioritization or allocation authority provided in such  
11 title I—

12 (A) to the extent practicable notify any  
13 State, local, or Tribal government if the Presi-  
14 dent determines that the exercise of such au-  
15 thorities would delay the receipt of such mate-  
16 rials ordered by such government; and

17 (B) take such steps as may be necessary,  
18 and as authorized by law, to ensure that such  
19 materials ordered by such government are deliv-  
20 ered in the shortest possible period, consistent  
21 with the purposes of the Defense Production  
22 Act of 1950.

23 (b) UPDATE TO FEDERAL REGULATIONS.—

24 (1) DPAS.—Not later than 30 days after the  
25 date of enactment of this Act, the Defense Property

1 Accountability System regulations (15 C.F.R. part  
2 700) shall be revised to reflect the requirements of  
3 subsection (a).

4 (2) FAR.—Not later than 30 days after the re-  
5 visions required by paragraph (1) are made, the  
6 Federal Acquisition Regulation shall be revised to  
7 reflect the requirements of subsection (a), consistent  
8 with the revisions made pursuant to paragraph (1).

9 **SEC. 4. ENGAGEMENT WITH THE PRIVATE SECTOR.**

10 (a) OUTREACH REPRESENTATIVE.—Consistent with  
11 the authorities in title VII of the Defense Production Act  
12 of 1950 (50 U.S.C. 4551 et seq.), the Administrator of  
13 the Federal Emergency Management Agency, in consulta-  
14 tion with the Secretary of Health and Human Services,  
15 may designate or appoint, pursuant to section 703 of such  
16 Act (50 U.S.C. 4553), an individual to be known as the  
17 “Outreach Representative” for the COVID–19 emergency  
18 period. Such individual shall—

19 (1) be appointed from among individuals with  
20 substantial experience in the production or distribu-  
21 tion of medical supplies or equipment; and

22 (2) act as the Government-wide single point of  
23 contact during the COVID–19 emergency for out-  
24 reach to manufacturing companies and their sup-  
25 pliers who may be interested in producing medical

1 supplies or equipment, including the materials de-  
2 scribed under section 2.

3 (b) ENCOURAGING PARTNERSHIPS.—During the  
4 COVID–19 emergency period, the Outreach Representa-  
5 tive shall seek to develop partnerships between companies,  
6 in coordination with any overall coordinator appointed by  
7 the President to oversee the response to the COVID–19  
8 emergency, including through the exercise of the authori-  
9 ties delegated by the President under section 708 of the  
10 Defense Production Act of 1950 (50 U.S.C. 4558).

11 **SEC. 5. ENHANCEMENT OF SUPPLY CHAIN PRODUCTION.**

12 In exercising authority under title III of the Defense  
13 Production Act of 1950 (50 U.S.C. 4531 et seq.) with re-  
14 spect to materials described in section 2, the President  
15 shall seek to ensure that support is provided to companies  
16 that comprise the supply chains for reagents, components,  
17 raw materials, and other materials and items necessary  
18 to produce or use the materials described in section 2 to  
19 the extent necessary for the national defense during the  
20 COVID–19 emergency period.

21 **SEC. 6. ENHANCED REPORTING DURING COVID–19 EMER-**  
22 **GENCY.**

23 (a) REPORT ON EXERCISING AUTHORITIES UNDER  
24 THE DEFENSE PRODUCTION ACT OF 1950.—

1           (1) IN GENERAL.—Not later than 90 days after  
2           the date of the enactment of this Act, the President,  
3           in consultation with the Administrator of the Fed-  
4           eral Emergency Management Agency, the Secretary  
5           of Defense, and the Secretary of Health and Human  
6           Services, shall submit to the appropriate congres-  
7           sional committees a report on the exercise of au-  
8           thorities under titles I, III, and VII of the Defense  
9           Production Act of 1950 (50 U.S.C. 4501 et seq.)  
10          prior to the date of such report for the purposes of  
11          the COVID–19 response.

12          (2) CONTENTS.—The report required under  
13          subsection (a) and the update required under para-  
14          graph (3) shall include the following:

15                (A) IN GENERAL.—With respect to each  
16                exercise of such authority—

17                       (i) an explanation of the purpose of  
18                       the applicable contract, purchase order, or  
19                       other exercise of authority (including an  
20                       allocation of materials, services, and facili-  
21                       ties under section 101(a)(2) of the Defense  
22                       Production Act of 1950 (50 U.S.C.  
23                       4511(a)(2));

24                       (ii) the cost of such exercise of au-  
25                       thority; and



1 (iii) if applicable—

2 (I) the amount of goods that  
3 were purchased or allocated;

4 (II) an identification of the entity  
5 awarded a contract or purchase order  
6 or that was the subject of the exercise  
7 of authority; and

8 (III) an identification of any en-  
9 tity that had shipments delayed by the  
10 exercise of any authority under the  
11 Defense Production Act of 1950 (50  
12 U.S.C. 4501 et seq.).

13 (B) CONSULTATIONS.—A description of  
14 any consultations conducted with relevant  
15 stakeholders on the needs addressed by the ex-  
16 ercise of the authorities described in paragraph  
17 (1).

18 (3) UPDATE.—The President shall provide an  
19 additional briefing to the appropriate congressional  
20 committees on the matters described under para-  
21 graph (2) no later than four months after the sub-  
22 mission of the report.

23 (b) EXERCISE OF LOAN AUTHORITIES.—

24 (1) IN GENERAL.—Any loan made pursuant to  
25 section 302 or 303 of the Defense Production Act of

1 1950, carried out by the United States International  
2 Development Finance Corporation pursuant to the  
3 authorities delegated by Executive Order No. 13922,  
4 shall be subject to the notification requirements con-  
5 tained in section 1446 of the BUILD Act of 2018  
6 (22 U.S.C. 9656).

7 (2) APPROPRIATE CONGRESSIONAL COMMIT-  
8 TEES.—For purposes of the notifications required by  
9 paragraph (1) the term “appropriate congressional  
10 committees”, as used section 1446 of the BUILD  
11 Act of 2018, shall be deemed to include the Com-  
12 mittee on Financial Services of the House of Rep-  
13 resentatives and the Committee on Banking, Hous-  
14 ing and Urban Development of the Senate.

15 (c) SUNSET.—The requirements of this section shall  
16 terminate on the later of—

17 (1) December 31, 2021; or

18 (2) the end of the COVID–19 emergency pe-  
19 riod.

20 **SEC. 7. REPORT ON ACTIVITIES INVOLVING SMALL BUSI-**  
21 **NESS.**

22 The report required by section 304(f)(3) of the De-  
23 fense Production Act of 1950 (50 U.S.C. 4534(f)(3)) for  
24 fiscal years 2022 and 2023 shall include the percentage  
25 of contracts awarded using funds to carry out the Defense

1 Production Act of 1950 for each of the fiscal years 2022  
2 and 2023, respectively, to small business concerns (as de-  
3 fined under section 702 of such Act).

4 **SEC. 8. DEFINITIONS.**

5 In this Act:

6 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**  
7 **TEES.**—The term “appropriate congressional com-  
8 mittees” means the Committees on Appropriations,  
9 Armed Services, Energy and Commerce, Financial  
10 Services, and Homeland Security of the House of  
11 Representatives and the Committees on Appropria-  
12 tions, Armed Services, Banking, Housing, and  
13 Urban Affairs, Health, Education, Labor, and Pen-  
14 sions, Homeland Security and Governmental Affairs,  
15 and Veterans’ Affairs of the Senate.

16 (2) **COVID–19 EMERGENCY PERIOD.**—The  
17 term “COVID–19 emergency period” means the pe-  
18 riod beginning on the date of enactment of this Act  
19 and ending on the earlier of—

20 (A) the end of the incident period for the  
21 emergency declared on March 13, 2020, by the  
22 President under section 501 of the Robert T.  
23 Stafford Disaster Relief and Emergency Assist-  
24 ance Act (42 U.S.C. 4121 et seq.) relating to

1 the Coronavirus Disease 2019 (COVID–19)  
2 pandemic; or

3 (B) September 30, 2025.

4 (3) RELEVANT STAKEHOLDER.—The term “rel-  
5 evant stakeholder” means—

6 (A) representative private sector entities;

7 (B) representatives of the nonprofit sector;

8 (C) representatives of primary and sec-  
9 ondary school systems; and

10 (D) representatives of organizations rep-  
11 resenting workers, including health workers,  
12 manufacturers, teachers, other public sector  
13 employees, and service sector workers.

14 (4) STATE.—The term “State” means each of  
15 the several States, the District of Columbia, the  
16 Commonwealth of Puerto Rico, and any territory or  
17 possession of the United States.

Passed the House of Representatives May 18, 2021.

Attest:

*Clerk.*



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