

117TH CONGRESS
1ST SESSION

H. R. 4470

To amend title 41, United States Code, and the Internal Revenue Code of 1986, to ensure availability of personal protective equipment during pandemics and other public health emergencies through stockpile requirements and domestic manufacturing incentives, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2021

Mrs. CAROLYN B. MALONEY of New York introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Oversight and Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 41, United States Code, and the Internal Revenue Code of 1986, to ensure availability of personal protective equipment during pandemics and other public health emergencies through stockpile requirements and domestic manufacturing incentives, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Made in America Pan-
5 demic Preparedness Act”.

1 **SEC. 2. REQUIREMENT TO MAINTAIN SUFFICIENT PER-**
2 **SONAL PROTECTIVE EQUIPMENT STOCKPILE**
3 **AND DOMESTIC SUPPLY CHAINS FOR NA-**
4 **TIONAL SECURITY PURPOSES.**

5 (a) IN GENERAL.—Chapter 83 of title 41, United
6 States Code, is amended by adding after section 8302 the
7 following:

8 **“§ 8302A. Personal protective equipment stockpile**
9 **and domestic supply chains**

10 “(a) DOMESTIC CONTENT REQUIREMENT.—

11 “(1) IN GENERAL.—To ensure strategic domes-
12 tic supply chain capabilities for national security
13 purposes, all personal protective equipment procured
14 for the Strategic National Stockpile shall be per-
15 sonal protective equipment that is produced in the
16 United States.

17 “(2) EXCEPTION.—Paragraph (1) shall not
18 apply with respect to the procurement of an item
19 that is personal protective equipment if the Sec-
20 retary determines that—

21 “(A) applying such paragraph would be in-
22 consistent with the public interest or national
23 security interest;

24 “(B) such item is not produced in the
25 United States in sufficient and reasonably

1 available quantities and of a satisfactory qual-
2 ity;

3 “(C) applying paragraph (1)—

4 “(i) with respect to a contract, cooper-
5 ative agreement, or transaction to be en-
6 tered into on or before the date that is 5
7 years after the date of the enactment of
8 the Made in America Pandemic Prepared-
9 ness Act, will increase the cost of such con-
10 tract, cooperative agreement, or trans-
11 action by more than 50 percent; and

12 “(ii) with respect to a contract, coop-
13 erative agreement, or transaction to be en-
14 tered into after the date that is 5 years
15 after the date of the enactment of the
16 Made in America Pandemic Preparedness
17 Act, will increase the cost of such contract,
18 cooperative agreement, or transaction by
19 more than 25 percent; or

20 “(D) such item is, or includes, materials
21 determined to be nonavailable in accordance
22 with section 25.104 of the Federal Acquisition
23 Regulation.

24 “(3) NOTIFICATION OF NONCOMPLIANCE RE-
25 QUIRED.—If the Secretary determines that the re-

1 requirement in paragraph (1) is not satisfied, the Sec-
2 retary shall—

3 “(A) submit to the Committee on Home-
4 land Security and Governmental Affairs of the
5 Senate and the Committee on Oversight and
6 Reform of the House of Representatives quar-
7 terly—

8 “(i) a notification stating that such
9 requirement has not been satisfied; and

10 “(ii) a report on—

11 “(I) the personal protective
12 equipment in the Strategic National
13 Stockpile;

14 “(II) any contract, cooperative
15 agreement, or other transaction en-
16 tered into in the prior quarter for the
17 procurement of personal protective
18 equipment not produced in the United
19 States, including the exception under
20 subsection (a)(5) applied with respect
21 to such contract; and

22 “(III) any actions taken by the
23 Secretary to ensure that the require-
24 ment under paragraph (1) is satisfied;
25 and

1 “(B) post on the website maintained by the
2 Administrator of General Services at SAM.gov
3 (or any successor site) each notification re-
4 quired by subparagraph (A)(i), except for any
5 information that is exempt from mandatory dis-
6 closure under section 552 of title 5, United
7 States Code.

8 “(b) SUFFICIENCY OF STRATEGIC NATIONAL STOCK-
9 PILE.—The Director shall work with the Secretary to
10 issue a biannual report to Congress that includes the fol-
11 lowing:

12 “(1) The state of personal protective equipment
13 inventory in the Strategic National Stockpile.

14 “(2) The state of personal protective equipment
15 inventory in stockpiles of other Federal agencies.

16 “(3) Estimates of the state of personal protec-
17 tive equipment inventory of non-Federal entities.

18 “(4) Estimates of the quantities of personal
19 protective equipment that would be required for an
20 array of possible emergencies, including a pandemic
21 or other emergency declared under section 319 of
22 the Public Health Service Act (42 U.S.C. 247d) and
23 that could last at least a year.

24 “(c) WEBSITE.—The Administrator of General Serv-
25 ices shall post on the website maintained by the Adminis-

1 trator at SAM.gov (or any successor site) information that
2 identifies suppliers that can provide personal protective
3 equipment that is produced in the United States for the
4 Strategic National Stockpile.

5 “(d) APPLICATION.—This section shall be applied in
6 a manner consistent with United States obligations under
7 international agreements.

8 “(e) DEFINITION.—In this section—

9 “(1) DIRECTOR.—The term ‘Director’ means
10 the Director of the Office of Management and Budg-
11 et.

12 “(2) PERSONAL PROTECTIVE EQUIPMENT.—
13 The term ‘personal protective equipment’ means an
14 item designed to protect the wearer or user from the
15 spread of infection or other health hazard, or to pro-
16 tect other individuals from possible infection by the
17 wearer, including a facemask, face covering, face
18 shield, gown, coverall, glove, goggle, respirator, pro-
19 tective eyewear, biohazard container, shoe cover,
20 hood, helmet, sleeve, scrub suit, surgical drape,
21 human remains bag, towel, disinfecting wipe, triage
22 tent, medical tent, or hand sanitizer.

23 “(3) PRODUCED IN THE UNITED STATES.—The
24 term ‘produced in the United States’ means, with re-
25 spect to an item—

1 “(A) the item that is manufactured or as-
2 sembled in the United States; and

3 “(B) the total value of the parts or compo-
4 nents contained in the item that are not grown,
5 reprocessed, reused, manufactured, or assem-
6 bled in the United States does not exceed 25
7 percent of the total purchase price of the item.

8 “(4) STRATEGIC NATIONAL STOCKPILE.—The
9 term ‘Strategic National Stockpile’ means the Stra-
10 tegic National Stockpile under section 319F–2 of
11 the Public Health Service Act (42 U.S.C. 247d–6b).

12 “(5) SECRETARY.—The term ‘Secretary’ means
13 the Secretary of Health and Human Services.

14 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
15 tion shall be construed to limit the private distribution,
16 purchase, or sale of personal protective equipment from
17 sources other than the Strategic National Stockpile.”.

18 (b) EFFECTIVE DATE.—This section, and the amend-
19 ments made by this section, shall take effect on the date
20 that is six months after the date on which this section
21 is enacted.

22 (c) TECHNICAL AND CONFORMING AMENDMENT.—
23 The table of sections at the beginning of chapter 83 of
24 title 41, United States Code, is amended by adding after
25 the item related to section 8302 the following new item:
 “8302A. Personal protective equipment stockpile and domestic supply chains.”.

1 **SEC. 3. PANDEMIC PREPARATION TAX CREDIT.**

2 (a) IN GENERAL.—Subpart D of part IV of sub-
3 chapter A of chapter 1 of the Internal Revenue Code of
4 1986 is amended by adding at the end the following new
5 section:

6 **“SEC. 45U. PANDEMIC PREPARATION TAX CREDIT.**

7 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
8 tion 38, the pandemic preparation tax credit determined
9 under this section for the taxable year is an amount equal
10 to 20 percent of the expenses paid or incurred by the tax-
11 payer during such taxable year for purposes of producing
12 personal protective equipment (including manufacturing
13 technology upgrades, workforce training expenses, compo-
14 nents, parts, or raw material used to make personal pro-
15 tective equipment) that qualifies for addition to the Stra-
16 tegic National Stockpile under section 8302A(a)(1) of title
17 41, United States Code.

18 “(b) DENIAL OF DOUBLE BENEFIT.—No deduction
19 or credit shall be allowed under any other provision of this
20 chapter with respect to any amount taken into account
21 in determining the credit allowed to a taxpayer under this
22 section.

23 “(c) REGULATIONS.—The Secretary shall prescribe
24 such regulations as are necessary or appropriate to carry
25 out the purpose of this section.”.

1 (b) CREDIT MADE PART OF GENERAL BUSINESS
2 CREDIT.—Section 38(b) of the Internal Revenue Code of
3 1986 is amended by striking “plus” at the end of para-
4 graph (32), striking the period at the end of paragraph
5 (33) and inserting “, plus”, and adding at the end the
6 following new paragraph:

7 “(34) the pandemic preparation credit deter-
8 mined under section 45U.”.

9 (c) CLERICAL AMENDMENT.—The table of sections
10 for subpart D of part IV of subchapter A of chapter 1
11 of such Code is amended by adding at the end the fol-
12 lowing new item:

“Sec. 45U. Pandemic preparation tax credit.”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 the date of the enactment of this Act.

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