

114TH CONGRESS  
2D SESSION

# H. R. 5138

To allow women greater access to safe and effective contraception.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 2016

Mrs. LOVE (for herself, Mrs. COMSTOCK, Mrs. LUMMIS, Ms. MCSALLY, Mr. COFFMAN, Mr. STEWART, and Mr. KINZINGER of Illinois) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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

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## A BILL

To allow women greater access to safe and effective  
contraception.

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 “Over-The-Counter  
5 Contraceptives Act of 2016”.

1 **SEC. 2. APPLICATIONS FOR NON-PRESCRIPTION CONTRA-**  
2 **CEPTIVE DRUGS.**

3 (a) **PRIORITY REVIEW OF APPLICATION.**—The Sec-  
4 retary of Health and Human Services (referred to in this  
5 section as the “Secretary”) shall give priority review to  
6 any supplemental application submitted under section  
7 505(b) of the Federal Food, Drug, and Cosmetic Act (21  
8 U.S.C. 355(b)) for a contraceptive drug, provided that—

9 (1) the supplemental application is with respect  
10 to a drug intended for routine use; and

11 (2) if the supplemental application is approved,  
12 with respect to individuals aged 18 and older, such  
13 drug would not be subject to section 503(b)(1) of  
14 the Federal Food, Drug, and Cosmetic Act (21  
15 U.S.C. 353(b)(1)).

16 (b) **FEE WAIVER.**—The Secretary shall waive the fee  
17 under section 736(a)(1) of the Federal Food, Drug, and  
18 Cosmetic Act (21 U.S.C. 379h(a)(1)) with respect to a  
19 supplemental application that receives priority review  
20 under subsection (a).

21 (c) **OVER-THE-COUNTER AVAILABILITY.**—Notwith-  
22 standing any other provision of law, with respect to indi-  
23 viduals under age 18, a contraceptive drug that is eligible  
24 for priority review under subsection (a) shall be subject  
25 to section 503(b)(1) of the Federal Food, Drug, and Cos-  
26 metic Act (21 U.S.C. 353(b)(1)).

1 **SEC. 3. EMPOWERING WOMEN TO MAKE THEIR OWN**  
2 **HEALTH DECISIONS.**

3 (a) NO LIMITATIONS BASED ON WHETHER A DRUG  
4 IS PRESCRIBED.—Section 9003 of the Patient Protection  
5 and Affordable Care Act (Public Law 111–148), and the  
6 amendments made by such section, are repealed, and the  
7 Internal Revenue Code of 1986 shall be applied as if such  
8 section, and amendments, had never been enacted.

9 (b) NO LIMITATIONS ON HEALTH FSAS.—Sections  
10 9005 and 10902 of the Patient Protection and Affordable  
11 Care Act (Public Law 111–148) and section 1403 of the  
12 Health Care and Education Reconciliation Act of 2010  
13 (Public Law 111–152), and the amendments made by  
14 such sections, are repealed, and the Internal Revenue  
15 Code of 1986 shall be applied as if such sections, and  
16 amendments, had never been enacted.

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