

115TH CONGRESS  
2D SESSION

# H. R. 5867

To authorize a joint action plan and report on drug waste.

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IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2018

Mr. DOGGETT (for himself and Ms. PINGREE) introduced the following bill;  
which was referred to the Committee on Energy and Commerce

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## A BILL

To authorize a joint action plan and report on drug waste.

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 “Reducing Drug Waste  
5 Act of 2018”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

8 (1) On May 23, 2017, the Department of  
9 Health and Human Services, acting through the Of-  
10 fice of the Inspector General in a letter to Senators  
11 Klobuchar, Durbin, and Shaheen, found that dif-  
12 ferent vial sizes in addition to those currently ap-

1 proved and marketed in the United States could  
2 sometimes significantly reduce the amount of drug  
3 discards, or waste, from single-use vials.

4 (2) The Office of Inspector General analyzed 20  
5 single-use vial drugs with the highest amounts of  
6 identifiable reimbursement for discarded drugs dur-  
7 ing 2013 and 2014 and found that the Medicare  
8 part B program paid \$11,600,000,000 for these  
9 drugs, \$2,100,000,000 of which was for drugs billed  
10 in increments of other-than-full vials, and  
11 \$195,000,000, or nearly 10 percent, of the  
12 \$2,100,000,000 billed in increments of other-than-  
13 full vials was reimbursed for discarded drugs.

14 (3) During the Food and Drug Administra-  
15 tion's review process for a drug's safety and efficacy  
16 before a drug is approved for marketing in the  
17 United States, the Food and Drug Administration  
18 reviews the manufacturer's proposed vial size.

19 (4) As of January 1, 2017, the Centers for  
20 Medicare & Medicaid Services requires all physi-  
21 cians, hospitals, and other providers submitting  
22 claims to Medicare to separately identify the dis-  
23 carded amount of a drug from a single-use vial (the  
24 JW modifier) on its claim for reimbursement by  
25 Medicare. The new requirement does not change the

1 amount the providers are reimbursed for single-use  
2 drugs.

3 **SEC. 3. JOINT ACTION PLAN AND REPORT ON DRUG WASTE.**

4 (a) **JOINT ACTION PLAN.**—The Commissioner of  
5 Food and Drugs, in coordination with the Administrator  
6 of the Centers for Medicare & Medicaid Services, shall de-  
7 velop a joint action plan, in consultation with health care  
8 providers and patient advocates (including relevant Fed-  
9 eral advisory committees) that—

10 (1) utilizes data from Medicare claims on how  
11 much of a single-use drug was not administered,  
12 comparing single-use vial sizes in other countries,  
13 and through analysis during the drug approval proc-  
14 ess of alternative vial size safety and efficacy, to re-  
15 duce drug waste and better manage costs; and

16 (2) includes quantifiable metrics and specific  
17 timelines.

18 (b) **REPORT.**—Not later than 1 year after the date  
19 of enactment of this Act, the Commissioner of Food and  
20 Drugs, in coordination with the Administrator of the Cen-  
21 ters for Medicare & Medicaid Services, shall submit to  
22 Congress the joint action plan described in subsection (a)  
23 and a report containing recommendations for any legisla-

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- 1 tive action needed to reduce drug waste and better manage
- 2 costs.

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