

117TH CONGRESS
2D SESSION

H. RES. 1434

Reaffirming the preemptive authority of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and the Public Health Service Act (42 U.S.C. 201 et seq.) (including regulations thereunder) with respect to State laws that inhibit access to or use of any reproductive health product.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 14, 2022

Mr. JONES (for himself, Ms. DEGETTE, Ms. NEWMAN, Mr. ESPAILLAT, Ms. TITUS, Ms. VELÁZQUEZ, Mr. GARCÍA of Illinois, Mr. BOWMAN, Mr. GOMEZ, Mr. CARSON, Mr. LOWENTHAL, Mr. COHEN, Mr. VARGAS, Ms. BUSH, Mrs. CAROLYN B. MALONEY of New York, Mr. CARTER of Louisiana, Ms. JACKSON LEE, Ms. WILSON of Florida, Ms. NORTON, Mr. TAKANO, Ms. SPEIER, Mr. EVANS, Ms. JACOBS of California, Mr. AUCHINCLOSS, Mr. KHANNA, Mr. LARSON of Connecticut, Mr. NADLER, Ms. LEE of California, Mrs. CHERFILUS-McCORMICK, and Ms. LOFGREN) submitted the following resolution; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, 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

RESOLUTION

Reaffirming the preemptive authority of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and the Public Health Service Act (42 U.S.C. 201 et seq.) (including regulations thereunder) with respect to State laws that inhibit access to or use of any reproductive health product.

Whereas a reproductive health product is any product approved, licensed, granted authorization, or cleared by the Food and Drug Administration that is used to diagnose, prevent, manage, treat, or terminate pregnancy, or diagnose, prevent, manage, or treat indications or conditions that occur during or are related to pregnancy, or otherwise relate to or affect the reproductive system;

Whereas reproductive rights and bodily autonomy face a renewed, relentless assault by State governments and recent decisions by the Supreme Court;

Whereas antiabortion State governments have increased their efforts to limit, if not outright ban, reproductive health products;

Whereas, under the Supremacy Clause of the United States Constitution, Federal laws take precedence over any conflicting State laws;

Whereas Congress delegated to the Food and Drug Administration sole authority to approve, license, grant authorization for, or clear reproductive health products and evaluate the safety and effectiveness of such products in the United States through the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and the Public Health Service Act (42 U.S.C. 201 et seq.);

Whereas Federal law preempts conflicting State laws that prohibit or limit access to or use of any reproductive health product;

Whereas mifepristone is safe and effective, and has been approved by the Food and Drug Administration for medication abortion for more than 20 years;

Whereas medication abortion accounts for half of all pregnancy terminations in the United States; and

Whereas antiabortion State governments are attempting to ignore the preemptive effect of Federal law to strip away access to or use of reproductive health products: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) reaffirms—

3 (A) the well-established authority of the
4 Food and Drug Administration to approve, li-
5 cense, grant authorization for, or clear repro-
6 ductive health products under the Federal
7 Food, Drug, and Cosmetic Act (21 U.S.C. 301
8 et seq.) and the Public Health Service Act (42
9 U.S.C. 201 et seq.) (including regulations
10 thereunder); and

11 (B) the preemptive effect of those Federal
12 laws on any law, requirement, regulation,
13 standard, or other provision enacted, otherwise
14 established, or enforced by any State or polit-
15 ical subdivision of a State that prohibits or lim-
16 its access to or use of any reproductive health
17 product;

18 (2) recognizes that the affirmation of the pre-
19 emptive effect of regulation by the Food and Drug
20 Administration of reproductive health products shall
21 not be construed to limit the preemptive effect of ap-
22 proval, licensure, authorization, or clearance by the

1 Food and Drug Administration of products that are
2 not reproductive health products or the preemptive
3 effect of any other Federal law; and

4 (3) affirms the authority of the Attorney Gen-
5 eral to enforce the preemptive effect of Federal laws
6 and regulations by taking appropriate civil action on
7 behalf of the United States against any State or po-
8 litical subdivision of a State that prohibits or limits
9 access to or use of any reproductive health product.

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