

116TH CONGRESS  
2D SESSION

# S. 4339

To provide, manufacture, and distribute high quality face masks for every individual in the United States during the COVID–19 emergency using the Defense Production Act and other means.

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## IN THE SENATE OF THE UNITED STATES

JULY 28, 2020

Ms. WARREN (for Mr. SANDERS (for himself, Ms. BALDWIN, Mr. BENNET, Mr. BLUMENTHAL, Mr. BOOKER, Mrs. GILLIBRAND, Ms. HARRIS, Mr. JONES, Mr. MARKEY, Mr. MERKLEY, Mr. PETERS, Mr. SCHUMER, Ms. SMITH, Mr. VAN HOLLEN, and Ms. WARREN)) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To provide, manufacture, and distribute high quality face masks for every individual in the United States during the COVID–19 emergency using the Defense Production Act and other means.

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 “Masks for All Act of  
5 2020”.

1 **SEC. 2. REQUIREMENT TO ELIMINATE MASK SHORTAGES.**

2 The President, acting through the Administrator,  
3 shall, as soon as practicable—

4 (1) eliminate all shortages of face masks, sur-  
5 gical masks, and N-95 respirator masks in the  
6 United States;

7 (2) manufacture the masks described in para-  
8 graph (1), to the greatest extent practicable, in the  
9 United States; and

10 (3) distribute the masks described in paragraph  
11 (1) to the general public and the health care work-  
12 force in accordance with this Act.

13 **SEC. 3. PROVIDING HIGH-QUALITY FACE MASKS TO EVERY**  
14 **INDIVIDUAL IN THE UNITED STATES.**

15 (a) IN GENERAL.—Not later than 30 days after the  
16 date of enactment of this Act, the Administrator shall es-  
17 tablish a program to provide a supply of 3 high-quality,  
18 reusable face masks to every individual in the United  
19 States, including individuals—

20 (1) experiencing homelessness; and

21 (2) living in group quarters, as defined by the  
22 Census Bureau for the purposes of the most recent  
23 decennial census.

24 (b) NO COST TO INDIVIDUALS.—An individual that  
25 receives a supply of face masks under this section shall  
26 not be charged for the face masks, for the delivery of the

1 face masks, or for any other administrative cost related  
2 to the face masks.

3 (c) PROHIBITION ON IDENTIFICATION REQUIRE-  
4 MENT.—An individual that receives a supply of face masks  
5 under this section shall not be required to provide identi-  
6 fication or proof of citizenship in order to receive the face  
7 masks.

8 (d) DELIVERIES.—To the greatest extent possible,  
9 face masks under this section shall be delivered using the  
10 United States Postal Service.

11 (e) EDUCATIONAL MATERIALS.—

12 (1) IN GENERAL.—Face masks provided under  
13 this section shall be accompanied by a 1-page fact  
14 sheet on the importance of wearing face masks, the  
15 proper use of face masks, and the nearest face mask  
16 pickup sites designated under subsection (f).

17 (2) REQUIREMENTS.—The information included  
18 in the fact sheet required under paragraph (1) shall  
19 be—

20 (A) scientifically and medically accurate;

21 (B) written for a layperson;

22 (C) presented in a size and type of font  
23 that is easy to read; and

24 (D) provided in the languages that are  
25 most appropriate for the community.

1           (3) PUBLICATION OF INFORMATION.—The in-  
2           formation included in the fact sheet required under  
3           paragraph (1) shall be published on the public  
4           website of the Federal Emergency Management  
5           Agency and the Department of Health and Human  
6           Services in multiple languages and in a manner that  
7           is in compliance with the Americans with Disabilities  
8           Act of 1990 for reading by the visually impaired.

9           (f) FACE MASK PICKUP SITES.—

10           (1) IN GENERAL.—The Administrator shall des-  
11           ignate face mask pickup sites in each community  
12           and shall provide face masks to each site, allocated  
13           according to population, to be distributed to the gen-  
14           eral public at no cost to the public.

15           (2) REQUIREMENTS FOR DESIGNATION OF  
16           SITES.—In designating sites as face mask pickup  
17           sites under paragraph (1), the Administrator shall  
18           choose—

19           (A) a location of a public entity, organiza-  
20           tion, or business that is providing essential  
21           services to communities, such as a post office,  
22           community pharmacy, Federally-qualified health  
23           center, senior center, congregate meal site, and  
24           COVID-19 testing site;

1 (B) a location that is easily accessible and  
2 appropriate to maximize the public health re-  
3 sponse to COVID–19; and

4 (C) when possible, a location that is feder-  
5 ally operated or is a recipient of Federal funds.

6 (3) REQUIREMENT FOR PICKUP SITES.—If a  
7 site is designated as a face mask pickup site under  
8 paragraph (1)—

9 (A) no individual shall be required to make  
10 a purchase in order to pick up masks at such  
11 location; and

12 (B) the site shall agree to display informa-  
13 tion, supplied by the Administrator, in a promi-  
14 nent location that—

15 (i) advertises the availability of free  
16 face masks provided by the Federal Gov-  
17 ernment; and

18 (ii) meets the requirements described  
19 in subsection (e)(2).

20 (g) NEW TECHNOLOGY.—

21 (1) IN GENERAL.—For purposes of delivering  
22 and providing the best available masks under this  
23 section, the Administrator shall consider new designs  
24 to create the most comfortable, well-fitting, reusable,  
25 and 2-way face masks that have adjustable sizing.

1           (2) STRATEGIC NATIONAL STOCKPILE.—If sig-  
2           nificant improvements in face mask technology are  
3           made available, the Administrator, in coordination  
4           with the Secretary, shall ensure that such face  
5           masks are included in the strategic national stock-  
6           pile.

7           (h) REQUIRED COORDINATION AND CONSULTA-  
8           TION.—

9           (1) COORDINATION.—In carrying out this sec-  
10          tion, the Administrator shall coordinate with the  
11          Secretary, the Assistant Secretary, the Postmaster  
12          General, and the heads of any other appropriate  
13          Federal departments or agencies.

14          (2) CONSULTATION.—In carrying out this sec-  
15          tion, the Administrator shall consult with States,  
16          units of local government, pickup sites, and appro-  
17          priate labor unions, including labor organizations  
18          representing employees of the United States Postal  
19          Service.

20          (i) EFFECT ON REQUESTS FOR PERSONAL PROTEC-  
21          TIVE EQUIPMENT.—Any face masks provided under this  
22          section shall not be taken into account for purposes of the  
23          Federal Government responding to State or health care  
24          provider requests for surgical masks, N-95 respirator

1 masks, personal protective equipment, or other supplies  
2 related to COVID–19.

3 **SEC. 4. HEALTH CARE WORKFORCE.**

4 (a) **IN GENERAL.**—Not later than 30 days after the  
5 date of enactment of this Act, the Administrator shall pro-  
6 vide surgical masks and N–95 respirator masks to all indi-  
7 viduals working in health care settings in the United  
8 States that are experiencing a shortage of such masks, in-  
9 cluding settings that have a short-term supply of such  
10 masks and settings that are practicing extended use and  
11 re-use of such masks, if such masks are single-use masks.

12 (b) **NO COST TO PERSONS OR STATES.**—A person or  
13 State that receives surgical masks and N–95 respirator  
14 masks under this section shall not be charged for the  
15 masks, for the delivery of the masks, or for any other ad-  
16 ministrative cost related to the masks.

17 (c) **REQUIRED COORDINATION.**—In carrying out this  
18 section, the Administrator shall coordinate—

19 (1) with the Secretary, the Assistant Secretary,  
20 the Postmaster General, and the heads of any other  
21 appropriate Federal departments or agencies; and

22 (2) to the greatest extent practicable, with  
23 other Federal programs that provide masks or other  
24 personal protective equipment to individuals working  
25 in health care settings.

1 (d) REQUIRED CONSULTATION.—In carrying out this  
2 section, the Administrator shall consult with health care  
3 providers and labor organizations representing health pro-  
4 fessionals and other individuals working in health care set-  
5 tings.

6 **SEC. 5. USE OF AUTHORITIES.**

7 (a) IN GENERAL.—In carrying out this Act—

8 (1) the President shall make use of any and all  
9 available authorities at the disposal of the Federal  
10 Government to procure, domestically manufacture,  
11 support the domestic manufacturing of face masks,  
12 and distribute face masks, surgical masks, and N-  
13 95 respirator masks, including emergency authori-  
14 ties, such as the Defense Production Act of 1950  
15 (50 U.S.C. 4511 et seq.), the National Emergencies  
16 Act (50 U.S.C. 1601 et seq.), and the Robert T.  
17 Stafford Disaster Relief and Emergency Assistance  
18 Act (42 U.S.C. 5121 et seq.); and

19 (2) the Administrator shall make use of au-  
20 thorities delegated to the Administrator under title  
21 I and title III of the Defense Production Act of  
22 1950 (50 U.S.C. 4511 et seq.) to increase domestic  
23 production of masks.

24 (b) REQUIREMENT.—Any face masks, surgical  
25 masks, and N-95 respirator masks procured or manufac-



1 tured for purposes of carrying out this Act shall be pur-  
2 chased in accordance with Federal Acquisition Regulation  
3 guidance on fair and reasonable pricing.

4 (c) EXCESS MASKS.—Any face masks, surgical  
5 masks, and N-95 respirator masks in the possession of  
6 the Federal Emergency Management Agency or the De-  
7 partment of Health and Human Services for purposes of  
8 carrying out this Act that have not been distributed as  
9 of the date described in section 6(d) shall be added to the  
10 strategic national stockpile.

11 **SEC. 6. APPROPRIATION; LIMITATIONS.**

12 (a) APPROPRIATION.—There is appropriated, out of  
13 amounts in the Treasury not otherwise appropriated,  
14 \$5,000,000,000, to remain available until the date de-  
15 scribed in subsection (d), to the Administrator to carry  
16 out this Act, provided that the Administrator uses such  
17 amounts as are necessary to reimburse the United States  
18 Postal Service for the delivery of masks under this Act.

19 (b) LIMITATION.—No funds made available under  
20 this section shall be provided to—

21 (1) any person who is a Federal elected official  
22 or serving in a Senior Executive Service position; or

23 (2) any entity that is controlled in whole or in  
24 part by a Federal elected official or serving in a  
25 Senior Executive Service position.

1 (c) EMERGENCY DESIGNATION.—

2 (1) IN GENERAL.—The amounts provided under  
3 this section are designated as an emergency require-  
4 ment pursuant to section 4(g) of the Statutory Pay-  
5 As-You-Go Act of 2010 (2 U.S.C. 933(g)).

6 (2) DESIGNATION IN SENATE.—In the Senate,  
7 this section is designated as an emergency require-  
8 ment pursuant to section 4112(a) of H. Con. Res.  
9 71 (115th Congress), the concurrent resolution on  
10 the budget for fiscal year 2018.

11 (d) DATE DESCRIBED.—The date described in this  
12 subsection is the date on which no new cases of COVID-  
13 19 are reported in the United States for a period of not  
14 less than 14 consecutive days.

15 **SEC. 7. REPORTS TO CONGRESS.**

16 (a) SUBMISSION OF PLAN.—Not later than 14 days  
17 after the date of enactment of this Act, the Administrator  
18 shall submit to Congress a strategic plan that includes  
19 monthly, measurable targets, to, as soon as practicable—

20 (1) eliminate all shortages of face masks, sur-  
21 gical masks, and N-95 respirator masks;

22 (2) increase domestic production of high-quality  
23 masks to the greatest extent possible;

24 (3) provide the greatest number possible of  
25 masks manufactured in the United States;

1           (4) distribute masks to the general public and  
2           the health care workforce in accordance with this  
3           Act; and

4           (5) fulfill all other requirements of this Act.

5           (b) WEEKLY PROGRESS REPORTS.—Beginning 7  
6           days after the date on which the strategic plan is sub-  
7           mitted under subsection (a), and every 7 days thereafter  
8           until the requirements of this Act are met, the Adminis-  
9           trator shall submit to Congress a detailed report on the  
10          activities undertaken to fulfill the requirements of this Act  
11          and a timeline for when such requirements will be fulfilled,  
12          which shall include—

13           (1) information on—

14           (A) the use of funds under this Act, pro-  
15           vided in an itemized list;

16           (B) the current and projected supply of  
17           face masks, surgical masks, and N-95 res-  
18           pirator masks;

19           (C) the sources of face masks, surgical  
20           masks, and N-95 respirator masks;

21           (D) the distribution of face masks, surgical  
22           masks, and N-95 respirator masks, by State,  
23           geographic area, and need;

1 (E) the prices paid by the Federal Govern-  
2 ment and to which suppliers such amounts were  
3 paid; and

4 (2) any other information requested by Con-  
5 gress.

6 (c) INSPECTOR GENERAL OVERSIGHT.—

7 (1) IN GENERAL.—The Inspector General of  
8 the Department of Homeland Security shall conduct  
9 monitoring and oversight of the receipt, disburse-  
10 ment, and use of funds made available under this  
11 Act.

12 (2) REPORT.—Not later than 1 year after the  
13 date described in section 6(d), the Inspector General  
14 of the Department of Homeland Security shall con-  
15 duct an audit of the program established under this  
16 Act and submit to Congress a report on the findings  
17 of such audit.

18 **SEC. 8. DEFINITIONS.**

19 In this Act:

20 (1) ADMINISTRATOR.—The term “Adminis-  
21 trator” means the Administrator of the Federal  
22 Emergency Management Agency.

23 (2) ASSISTANT SECRETARY.—The term “Assist-  
24 ant Secretary” means the Assistant Secretary for

1 Preparedness and Response of the Department of  
2 Health and Human Services.

3 (3) INDIAN TRIBE.—The term “Indian Tribe”  
4 has the meaning given the term “Indian tribe” in  
5 section 4(e) of the Indian Self-Determination and  
6 Education Assistance Act (25 U.S.C. 5304(e)).

7 (4) SECRETARY.—The term “Secretary” means  
8 the Secretary of Health and Human Services.

9 (5) SENIOR EXECUTIVE SERVICE POSITION.—  
10 The term “Senior Executive Service position” has  
11 the meaning given that term in section 3132(a) of  
12 title 5, United States Code.

13 (6) STATE.—The term “State” means—

14 (A) any State of the United States;

15 (B) the District of Columbia;

16 (C) the Commonwealth of Puerto Rico;

17 (D) Guam;

18 (E) American Samoa;

19 (F) the Commonwealth of the Northern  
20 Mariana Islands;

21 (G) the Federated States of Micronesia;

22 (H) the Republic of the Marshall Islands;

23 (I) the Republic of Palau;

24 (J) the United States Virgin Islands; and

25 (K) each Indian Tribe.

1           (7) UNITED STATES.—The term “United  
2 States” means—

3           (A) each of the several States of the  
4 United States;

5           (B) the District of Columbia;

6           (C) the Commonwealth of Puerto Rico;

7           (D) Guam;

8           (E) American Samoa;

9           (F) the Commonwealth of the Northern  
10 Mariana Islands;

11           (G) the Federated States of Micronesia;

12           (H) the Republic of the Marshall Islands;

13           (I) the Republic of Palau;

14           (J) the United States Virgin Islands; and

15           (K) each Indian Tribe.

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