

107TH CONGRESS
2D SESSION

S. 2536

To amend title XIX of the Social Security Act to clarify that section 1927 of that Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the medicaid program.

IN THE SENATE OF THE UNITED STATES

MAY 21, 2002

Ms. STABENOW (for herself, Mr. DURBIN, Mr. LEAHY, Mr. JEFFORDS, Mrs. BOXER, Mr. LEVIN, Mr. DORGAN, Mr. SCHUMER, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XIX of the Social Security Act to clarify that section 1927 of that Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the medicaid program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Rx Flexibility for
3 States Act”.

4 **SEC. 2. CLARIFICATION OF STATE AUTHORITY RELATING**
5 **TO MEDICAID DRUG REBATE AGREEMENTS.**

6 Section 1927 of the Social Security Act (42 U.S.C.
7 1396r–8) is amended by adding at the end the following:

8 “(1) **RULE OF CONSTRUCTION.**—Nothing in this sec-
9 tion shall be construed as prohibiting a State from—

10 “(1) directly entering into rebate agreements
11 that are similar to a rebate agreement described in
12 subsection (b) with a manufacturer for purposes of
13 ensuring the affordability of outpatient prescription
14 drugs in order to provide access to such drugs by
15 residents of a State who are not otherwise eligible
16 for medical assistance under this title; or

17 “(2) making prior authorization (that satisfies
18 the requirements of subsection (d) and that does not
19 violate any requirements of this title that are de-
20 signed to ensure access to medically necessary pre-
21 scribed drugs for individuals enrolled in the State
22 program under this title) a condition of not partici-
23 pating in such a similar rebate agreement.”.

○