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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.

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

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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