

116TH CONGRESS
2D SESSION

S. 4578

To provide for domestic sourcing of personal protective equipment, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 2020

Mr. PORTMAN (for himself and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide for domestic sourcing of personal protective equipment, and for other purposes.

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 “Make PPE in America
5 Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The COVID–19 pandemic has exposed the
9 vulnerability of the United States supply chains for,

1 and lack of domestic production of, personal protec-
2 tive equipment (PPE).

3 (2) The United States requires a robust, secure,
4 and wholly domestic PPE supply chain to safeguard
5 public health and national security.

6 (3) Issuing a strategy that provides the govern-
7 ment's anticipated needs over the next three years
8 will enable suppliers to assess what changes, if any,
9 are needed in their manufacturing capacity to meet
10 expected demands.

11 (4) In order to foster a domestic PPE supply
12 chain, United States industry needs a strong and
13 consistent demand signal from the Federal Govern-
14 ment providing the necessary certainty to expand
15 production capacity investment in the United States.

16 (5) In order to effectively incentivize investment
17 in the United States and the re-shoring of manufac-
18 turing, long-term contracts must be no shorter than
19 three years in duration.

20 (6) The United States needs a long-term invest-
21 ment strategy for the domestic production of PPE
22 items critical to the United States national response
23 to a public health crisis, including the COVID-19
24 pandemic.

1 **SEC. 3. REQUIREMENT OF LONG-TERM CONTRACTS FOR**
2 **DOMESTICALLY MANUFACTURED PERSONAL**
3 **PROTECTIVE EQUIPMENT.**

4 (a) DEFINITIONS.—In this section:

5 (1) APPROPRIATE CONGRESSIONAL COMMIT-
6 TEES.—The term “appropriate congressional com-
7 mittees” means—

8 (A) the Committee on Health, Education,
9 Labor, and Pensions, the Committee on Fi-
10 nance, the Committee on Homeland Security
11 and Governmental Affairs, the Committee on
12 Veterans’ Affairs, and the Committee on Armed
13 Services of the Senate; and

14 (B) the Committee on Energy and Com-
15 merce, the Committee on Ways and Means, the
16 Committee on Homeland Security, the Com-
17 mittee on Veterans’ Affairs, and the Committee
18 on Armed Services of the House of Representa-
19 tives.

20 (2) COVERED SECRETARY.—The term “covered
21 Secretary” means the Secretary of Homeland Secu-
22 rity, the Secretary of Health and Human Services,
23 the Secretary of Defense, the Secretary of Edu-
24 cation, and the Secretary of Veterans Affairs.

25 (3) PERSONAL PROTECTIVE EQUIPMENT.—The
26 term “personal protective equipment” means sur-

1 gical masks, respirator masks and powered air puri-
2 fying respirators and required filters, face shields
3 and protective eyewear, gloves, disposable and reus-
4 able surgical and isolation gowns, and head and foot
5 coverings, or other gear or clothing used to protect
6 an individual from the transmission of disease.

7 (4) UNITED STATES.—The term “United
8 States” means the 50 States, the District of Colum-
9 bia, and the possessions of the United States.

10 (b) CONTRACT REQUIREMENTS.—Beginning 90 days
11 after the date of the enactment of this Act, in order to
12 ensure the sustainment and expansion of personal protec-
13 tive equipment manufacturing in the United States and
14 meet the needs of the current pandemic response, any con-
15 tract for the procurement of personal protective equipment
16 entered into by a covered Secretary, or a covered Sec-
17 retary’s designee, shall—

18 (1) be issued for a duration of at least 3 years,
19 including a base period and all option periods, to
20 incentivize investment in the production of personal
21 protective equipment and the materials and compo-
22 nents thereof in the United States; and

23 (2) be for personal protective equipment that—

24 (A) is grown, reprocessed, reused, or pro-
25 duced in the United States; and

1 (B) when assembled outside the United
2 States, contains only materials and components
3 that are grown, reprocessed, reused, or pro-
4 duced in the United States.

5 (c) AVAILABILITY EXCEPTION.—Paragraph (2) of
6 subsection (b) shall not apply to an item of personal pro-
7 tective equipment, or component or material thereof—

8 (1) that is, or that includes, a material listed in
9 section 25.104 of the Federal Acquisition Regulation
10 as one for which a non-availability determination has
11 been made;

12 (2) as to which the covered Secretary deter-
13 mines that a sufficient quantity of a satisfactory
14 quality that is grown, reprocessed, reused, or pro-
15 duced in the United States cannot be procured as,
16 and when, needed at United States market prices; or

17 (3) if, after maximizing to the extent feasible
18 sources consistent with subsection (b), the covered
19 Secretary certifies every 120 days that it is nec-
20 essary to procure personal protective equipment
21 under alternate procedures to respond to the imme-
22 diate needs of a public health emergency.

23 (d) REPORT.—

24 (1) IN GENERAL.—Not later than 90 days after
25 the date of the enactment of this Act, the Director

1 of the Office of Management and Budget, in con-
2 sultation with the covered Secretaries, shall submit
3 to the chairs and ranking members of the appro-
4 priate congressional committees a report on the pro-
5 curement of personal protective equipment.

6 (2) ELEMENTS.—The report required under
7 paragraph (1) shall include the following elements:

8 (A) The United States long-term domestic
9 procurement strategy for PPE produced in the
10 United States, including strategies to
11 incentivize investment in and maintain United
12 States supply chains for all PPE sufficient to
13 meet the needs of the United States during a
14 public health emergency.

15 (B) An estimate of long-term demand
16 quantities for all PPE items procured by the
17 United States.

18 (C) Recommendations for congressional ac-
19 tion required to implement the United States
20 Government's procurement strategy.

21 (D) A determination whether all notifica-
22 tions, amendments, and other necessary actions
23 have been completed to bring the United States
24 existing international obligations into con-

1 formity with the statutory requirements of this
2 Act.

3 (e) AUTHORIZATION OF TRANSFER OF EQUIP-
4 MENT.—A covered Secretary may transfer to the Strategic
5 National Stockpile established under section 319F–2 of
6 the Public Health Service Act (42 U.S.C. 247d–6b) any
7 excess personal protective equipment acquired under a
8 contract executed pursuant to subsection (b).

9 (f) COMPLIANCE WITH INTERNATIONAL AGREE-
10 MENTS.—This Act shall be applied in a manner consistent
11 with United States obligations under international agree-
12 ments.

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