

117TH CONGRESS
2D SESSION

S. 3486

To provide, manufacture, and distribute high quality N-95 respirator masks for every individual in the United States during the COVID-19 pandemic using the Defense Production Act and other means.

IN THE SENATE OF THE UNITED STATES

JANUARY 12 (legislative day, JANUARY 10), 2022

Mr. SANDERS (for himself, Ms. BALDWIN, Mr. BENNET, Mr. BLUMENTHAL, Mr. BOOKER, Ms. DUCKWORTH, Mrs. GILLIBRAND, Mr. MARKEY, Mr. MERKLEY, Mr. PADILLA, Mr. PETERS, Mr. SCHUMER, Ms. SMITH, Mr. VAN HOLLEN, Ms. WARREN, Mr. WYDEN, and Mr. HEINRICH) 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 N-95 respirator masks for every individual in the United States during the COVID-19 pandemic 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 2022”.

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 N-95 respirator
5 masks in the United States;

6 (2) manufacture N-95 respirator masks, to the
7 greatest extent practicable, in the United States;
8 and

9 (3) distribute N-95 respirator masks to the
10 general public and the health care workforce in ac-
11 cordance with this Act.

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

14 (a) IN GENERAL.—Not later than 30 days after the
15 date of enactment of this Act, the Administrator shall es-
16 tablish a program to provide a supply of 3 N-95 respirator
17 masks to every individual in the United States, including
18 individuals—

19 (1) experiencing homelessness; and

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

23 (b) NO COST TO INDIVIDUALS.—An individual that
24 receives a supply of N-95 respirator masks under this sec-
25 tion shall not be charged for the N-95 respirator masks,
26 for the delivery of the N-95 respirator masks, or for any

1 other administrative cost relating to the N-95 respirator
2 masks.

3 (c) PROHIBITION ON IDENTIFICATION REQUIRE-
4 MENT.—An individual that receives a supply of N-95 res-
5 pirator masks under this section shall not be required to
6 provide identification or proof of citizenship in order to
7 receive the N-95 respirator masks.

8 (d) DELIVERIES.—To the greatest extent possible,
9 N-95 respirator masks provided under this section shall
10 be delivered using the United States Postal Service.

11 (e) EDUCATIONAL MATERIALS.—

12 (1) IN GENERAL.—N-95 respirator masks pro-
13 vided under this section shall be accompanied by a
14 1-page fact sheet on the importance of wearing N-
15 95 respirator masks, the proper use of N-95 res-
16 pirator masks, and the nearest N-95 respirator
17 mask pickup sites designated under subsection (f).

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

- 21 (A) scientifically and medically accurate;
- 22 (B) written for a layperson;
- 23 (C) presented in a size and type of font
- 24 that is easy to read; and

1 (D) provided in the languages that are
2 most appropriate for the community.

3 (3) PUBLICATION OF INFORMATION.—The in-
4 formation included in the fact sheet required under
5 paragraph (1) shall be published on the public
6 website of the Federal Emergency Management
7 Agency and the Department of Health and Human
8 Services in multiple languages and in a manner that
9 is in compliance with the Americans with Disabilities
10 Act of 1990 (42 U.S.C. 12101 et seq.) for reading
11 by the visually impaired.

12 (f) MASK PICKUP SITES.—

13 (1) IN GENERAL.—The Administrator shall des-
14 ignate N-95 respirator mask pickup sites in each
15 community and shall provide N-95 respirator masks
16 to each site, allocated according to population, to be
17 distributed to the general public at no cost to the
18 public.

19 (2) REQUIREMENTS FOR DESIGNATION OF
20 SITES.—In designating sites as N-95 respirator
21 mask pickup sites under paragraph (1), the Admin-
22 istrator shall choose—

23 (A) a location of a public entity, organiza-
24 tion, or business that provides essential services
25 to communities, such as a post office, commu-

nity pharmacy, Federally-qualified health center, senior center, congregate meal site, and COVID-19 testing or vaccination site;

(B) a location that is easily accessible and appropriate to maximize the public health response to COVID-19; and

(C) when possible, a location that is federally operated or is a recipient of Federal funds.

(3) REQUIREMENT FOR PICKUP SITES.—If a site is designated as an N-95 respirator mask pickup site under paragraph (1)—

(A) no individual shall be required to make a purchase in order to pick up N-95 respirator masks at such location; and

(B) the site shall agree to display information, supplied by the Administrator, in a prominent location that—

(i) advertises the availability of free N-95 respirator masks provided by the Federal Government; and

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

(g) DEVELOPMENTS IN N-95 RESPIRATOR MASKS.—

(1) IN GENERAL.—For purposes of delivering and providing the best available N-95 respirator

1 masks under this section, the Administrator shall
2 consider new designs to create the most comfortable,
3 well-fitting, and effective N-95 respirator masks
4 that—

5 (A) have adjustable sizing; or

6 (B) are available in different sizes, includ-
7 ing sizes for children.

8 (2) FLEXIBILITY.—For the purpose of fulfilling
9 the requirements of this section, the Administrator
10 may distribute respirator masks that—

11 (A) are equivalent to N-95 respirator
12 masks; and

13 (B) have been tested by the Federal Gov-
14 ernment.

15 (3) STRATEGIC NATIONAL STOCKPILE.—If sig-
16 nificant improvements in N-95 respirator mask
17 technology are made available, the Administrator, in
18 coordination with the Secretary, shall ensure that
19 such N-95 respirator masks are included in the
20 strategic national stockpile.

21 (h) REQUIRED COORDINATION AND CONSULTA-
22 TION.—

23 (1) COORDINATION.—In carrying out this sec-
24 tion, the Administrator shall coordinate with the
25 Secretary, the Assistant Secretary, the Postmaster

1 General, and the heads of any other appropriate
2 Federal departments or agencies.

3 (2) CONSULTATION.—In carrying out this sec-
4 tion, the Administrator shall consult with States,
5 units of local government, pickup sites, and appro-
6 priate labor unions, including labor organizations
7 representing employees of the United States Postal
8 Service.

9 (i) EFFECT ON REQUESTS FOR PERSONAL PROTEC-
10 TIVE EQUIPMENT.—Any N-95 respirator mask provided
11 under this section shall not be taken into account for pur-
12 poses of the Federal Government responding to State or
13 health care provider requests for surgical masks, N-95
14 respirator masks, personal protective equipment, or other
15 supplies related to COVID-19.

16 **SEC. 4. HEALTH CARE WORKFORCE.**

17 (a) IN GENERAL.—Not later than 30 days after the
18 date of enactment of this Act, the Administrator shall pro-
19 vide N-95 respirator masks to all individuals working in
20 health care settings in the United States that are experi-
21 encing a shortage of such masks, including settings that
22 have a short-term supply of such masks and settings that
23 are practicing extended use and re-use of such masks, if
24 such masks are single-use masks.

1 (b) NO COST TO PERSONS OR STATES.—A person or
2 State that receives N-95 respirator masks under this sec-
3 tion shall not be charged for the masks, for the delivery
4 of the masks, or for any other administrative cost related
5 to the masks.

6 (c) REQUIRED COORDINATION.—In carrying out this
7 section, the Administrator shall coordinate—

8 (1) with the Secretary, the Assistant Secretary,
9 the Postmaster General, and the heads of any other
10 appropriate Federal departments or agencies; and

11 (2) to the greatest extent practicable, with
12 other Federal programs that provide masks or other
13 personal protective equipment to individuals working
14 in health care settings.

15 (d) REQUIRED CONSULTATION.—In carrying out this
16 section, the Administrator shall consult with health care
17 providers and labor organizations representing health pro-
18 fessionals and other individuals working in health care set-
19 tings.

20 **SEC. 5. USE OF AUTHORITIES.**

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

22 (1) the President shall make use of any and all
23 available authorities at the disposal of the Federal
24 Government to procure and domestically manufac-
25 ture N-95 respirator masks and support the domes-

1 tic manufacturing of N-95 respirator masks, includ-
2 ing emergency authorities, such as the Defense Pro-
3 duction Act of 1950 (50 U.S.C. 4501 et seq.), the
4 National Emergencies Act (50 U.S.C. 1601 et seq.),
5 and the Robert T. Stafford Disaster Relief and
6 Emergency Assistance Act (42 U.S.C. 5121 et seq.);
7 and

8 (2) the Administrator shall make use of au-
9 thorities delegated to the Administrator under title
10 I and title III of the Defense Production Act of
11 1950 (50 U.S.C. 4511 et seq.) to increase domestic
12 production of N-95 respirator masks.

13 (b) REQUIREMENT.—Any N-95 respirator masks
14 procured or manufactured for purposes of carrying out
15 this Act shall be purchased in accordance with Federal
16 Acquisition Regulation guidance on fair and reasonable
17 pricing.

18 (c) EXCESS MASKS.—Any N-95 respirator masks in
19 the possession of the Federal Emergency Management
20 Agency or the Department of Health and Human Services
21 for purposes of carrying out this Act that have not been
22 distributed as of the date described in section 6(d) shall
23 be added to the strategic national stockpile.

1 **SEC. 6. APPROPRIATION; LIMITATIONS.**

2 (a) APPROPRIATION.—There is appropriated, out of
3 amounts in the Treasury not otherwise appropriated,
4 \$5,000,000,000, to remain available until the date de-
5 scribed in subsection (d), to the Administrator to carry
6 out this Act, provided that the Administrator uses such
7 amounts as are necessary to reimburse the United States
8 Postal Service for the delivery of N-95 respirator masks
9 under this Act.

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

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

14 (2) any entity that is controlled in whole or in
15 part by a Federal elected official or serving in a
16 Senior Executive Service position.

17 (c) EMERGENCY DESIGNATION.—

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

22 (2) DESIGNATION IN HOUSE AND SENATE.—

23 This section is designated as an emergency require-
24 ment pursuant to subsections (a) and (b) of section
25 4001 of S. Con. Res. 14 (117th Congress), the con-

1 current resolution on the budget for fiscal year
2 2022.

3 (d) DATE DESCRIBED.—The date described in this
4 subsection is the date on which no new cases of COVID–
5 19 are reported in the United States for a period of not
6 less than 14 consecutive days.

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

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

12 (1) eliminate all shortages of N–95 respirator
13 masks;

14 (2) increase domestic production of N–95 res-
15 pirator masks to the greatest extent possible;

16 (3) provide the greatest number possible of N–
17 95 respirator masks manufactured in the United
18 States;

19 (4) distribute N–95 respirator masks to the
20 general public and the health care workforce in ac-
21 cordance with this Act; and

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

23 (b) WEEKLY PROGRESS REPORTS.—Beginning 7
24 days after the date on which the strategic plan is sub-
25 mitted under subsection (a), and every 7 days thereafter

1 until the requirements of this Act are met, the Adminis-
2 trator shall submit to Congress a detailed report on the
3 activities undertaken to fulfill the requirements of this Act
4 and a timeline for when such requirements will be fulfilled,
5 which shall include—

6 (1) information on—

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

9 (B) the current and projected supply of N-
10 95 respirator masks;

11 (C) the sources of N-95 respirator masks;

12 (D) the distribution of N-95 respirator
13 masks by State, geographic area, and need; and

14 (E) the prices paid by the Federal Govern-
15 ment and to which suppliers such amounts were
16 paid; and

17 (2) any other information requested by Con-
18 gress.

19 (c) INSPECTOR GENERAL OVERSIGHT.—

20 (1) IN GENERAL.—The Inspector General of
21 the Department of Homeland Security shall conduct
22 monitoring and oversight of the receipt, disburse-
23 ment, and use of funds made available under this
24 Act.

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

7 **SEC. 8. DEFINITIONS.**

8 In this Act:

9 (1) ADMINISTRATOR.—The term “Adminis-
10 trator” means the Administrator of the Federal
11 Emergency Management Agency.

12 (2) ASSISTANT SECRETARY.—The term “Assist-
13 ant Secretary” means the Assistant Secretary for
14 Preparedness and Response of the Department of
15 Health and Human Services.

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

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

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

1 (6) STATE.—The term “State” means—

2 (A) any State of the United States;

3 (B) the District of Columbia;

4 (C) the Commonwealth of Puerto Rico;

5 (D) Guam;

6 (E) American Samoa;

7 (F) the Commonwealth of the Northern

8 Mariana Islands;

9 (G) the Federated States of Micronesia;

10 (H) the Republic of the Marshall Islands;

11 (I) the Republic of Palau;

12 (J) the United States Virgin Islands; and

13 (K) each Indian Tribe.

14 (7) UNITED STATES.—The term “United

15 States” means—

16 (A) each of the several States of the

17 United States;

18 (B) the District of Columbia;

19 (C) the Commonwealth of Puerto Rico;

20 (D) Guam;

21 (E) American Samoa;

22 (F) the Commonwealth of the Northern

23 Mariana Islands;

24 (G) the Federated States of Micronesia;

25 (H) the Republic of the Marshall Islands;

- 1 (I) the Republic of Palau;
- 2 (J) the United States Virgin Islands; and
- 3 (K) each Indian Tribe.

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