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(Original Signature of Member)

116TH CONGRESS
2D SESSION

H. R.

To amend title 41, United States Code, and the Internal Revenue Code of 1986, to ensure availability of personal protective equipment during pandemics and other public health emergencies through stockpile requirements and domestic manufacturing incentives, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. CAROLYN B. MALONEY of New York introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title 41, United States Code, and the Internal Revenue Code of 1986, to ensure availability of personal protective equipment during pandemics and other public health emergencies through stockpile requirements and domestic manufacturing incentives, 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 “Made in America:
5 Preparation for a Pandemic Act of 2020”.

1 **SEC. 2. REQUIREMENT TO MAINTAIN SUFFICIENT PER-**
2 **SONAL PROTECTIVE EQUIPMENT STOCKPILE**
3 **AND DOMESTIC SUPPLY CHAINS FOR NA-**
4 **TIONAL SECURITY PURPOSES.**

5 (a) IN GENERAL.—Chapter 83 of title 41, United
6 States Code, is amended by adding after section 8302 the
7 following:

8 **“§ 8302A. Personal protective equipment stockpile**
9 **and domestic supply chains**

10 “(a) DOMESTIC CONTENT REQUIREMENT.—

11 “(1) IN GENERAL.—To ensure strategic domes-
12 tic supply chain capabilities for national security
13 purposes, not less than 25 percent of the amount of
14 personal protective equipment in the Strategic Na-
15 tional Stockpile shall be comprised of personal pro-
16 tective equipment that is produced in the United
17 States.

18 “(2) REQUIREMENT TO PROCURE ITEMS PRO-
19 DUCED IN THE UNITED STATES.—If the requirement
20 under paragraph (1) is not satisfied, until such re-
21 quirement is satisfied no Federal funds may be used
22 to procure an item that is personal protective equip-
23 ment for the Strategic National Stockpile unless
24 that item is produced in the United States.

1 “(3) DIRECTOR.—The Director shall work with
2 the Secretary to ensure that the requirement under
3 paragraph (1) is satisfied.

4 “(4) EXCEPTION.—Paragraph (2) shall not
5 apply with respect to the procurement of an item
6 that is personal protective equipment if the Sec-
7 retary and the Director determine jointly that—

8 “(A) applying such paragraph would be in-
9 consistent with the public interest or national
10 security interest;

11 “(B) such item is not produced in the
12 United States in sufficient and reasonably
13 available quantities and of a satisfactory qual-
14 ity;

15 “(C) applying paragraph (2)—

16 “(i) with respect to a contract, cooper-
17 ative agreement, or transaction to be en-
18 tered into on or before the date that is 5
19 years after the date of the enactment of
20 the Made in America: Preparation for a
21 Pandemic Act of 2020, will increase the
22 cost of such contract, cooperative agree-
23 ment, or transaction by more than 50 per-
24 cent; and

1 “(ii) with respect to a contract, coop-
2 erative agreement, or transaction to be en-
3 tered into after the date that is 5 years
4 after the date of the enactment of the
5 Made in America: Preparation for a Pan-
6 demic Act of 2020, will increase the cost of
7 such contract, cooperative agreement, or
8 transaction by more than 25 percent; or

9 “(D) such item is, or includes, materials
10 determined to be nonavailable in accordance
11 with section 25.104 of the Federal Acquisition
12 Regulation.

13 “(5) NOTIFICATION OF NONCOMPLIANCE RE-
14 QUIRED.—If the Director determines that the re-
15 quirement in paragraph (1) is not satisfied, the Di-
16 rector shall—

17 “(A) submit to the Committee on Home-
18 land Security and Governmental Affairs of the
19 Senate and the Committee on Oversight and
20 Reform of the House of Representatives quar-
21 terly—

22 “(i) a notification stating that such
23 requirement has not been satisfied; and

24 “(ii) a report on—

1 “(I) the personal protective
2 equipment in the Strategic National
3 Stockpile;

4 “(II) any contract entered into in
5 the prior quarter for the procurement
6 of personal protective equipment not
7 produced in the United States, includ-
8 ing the exception under subsection
9 (a)(4) applied with respect to such
10 contract; and

11 “(III) any actions taken by the
12 Director to ensure that the require-
13 ment under paragraph (1) is satisfied;
14 and

15 “(B) post on the internet website main-
16 tained by the General Services Administration
17 at beta.SAM.gov (or any successor site) each
18 notification required by subparagraph (A)(i).

19 “(b) SUFFICIENCY OF STRATEGIC NATIONAL STOCK-
20 PILE.—The Director shall ensure that the Strategic Na-
21 tional Stockpile includes an amount of personal protective
22 equipment sufficient to meet the health security needs of
23 the United States for 1 year during a pandemic or other
24 emergency declared under section 319 of the Public

1 Health Service Act (42 U.S.C. 247d), including any re-
2 newal thereof.

3 “(c) APPLICATION.—This section shall be applied in
4 a manner consistent with United States obligations under
5 international agreements.

6 “(d) DEFINITION.—In this section—

7 “(1) DIRECTOR.—The term ‘Director’ means
8 the Director of the Office of Management and Budg-
9 et.

10 “(2) PERSONAL PROTECTIVE EQUIPMENT.—
11 The term ‘personal protective equipment’ means an
12 item designed to protect the wearer or user from the
13 spread of infection or illness, including a facemask,
14 face covering, face shield, gown, coverall, glove, gog-
15 gles, respirator, protective eyewear, biohazard con-
16 tainer, shoe cover, hood, helmet, sleeve, scrub suit,
17 surgical drape, human remains bag, towel, dis-
18 infecting wipe, triage tent, medical tent, or hand
19 sanitizer.

20 “(3) PRODUCED IN THE UNITED STATES.—The
21 term ‘produced in the United States’ means, with re-
22 spect to an item—

23 “(A) the item that is manufactured or as-
24 sembled in the United States; and

1 “(B) the total value of the parts or compo-
2 nents contained in the item that are not grown,
3 reprocessed, reused, manufactured, or assem-
4 bled in the United States does not exceed 25
5 percent of the total purchase price of the item.

6 “(4) STRATEGIC NATIONAL STOCKPILE.—The
7 term ‘Strategic National Stockpile’ means the Stra-
8 tegic National Stockpile under section 319F–2 of
9 the Public Health Service Act (42 U.S.C. 247d–6b).

10 “(5) SECRETARY.—The term ‘Secretary’ means
11 the Secretary of Health and Human Services.

12 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
13 tion shall be construed to limit the private distribution,
14 purchase, or sale of personal protective equipment from
15 sources other than the Strategic National Stockpile.”.

16 (b) EFFECTIVE DATE.—This section, and the amend-
17 ments made by this section, shall take effect on the date
18 that is six months after the date on which this section
19 is enacted.

20 (c) TECHNICAL AND CONFORMING AMENDMENT.—
21 The table of sections at the beginning of chapter 83 of
22 title 41, United States Code, is amended by adding after
23 the item related to section 8302 the following new item:

 “8302A. Requirement to maintain sufficient personal protective equipment
 stockpile and domestic supply chains for national security pur-
 poses”.

1 **SEC. 3. PANDEMIC PREPARATION TAX CREDIT.**

2 (a) IN GENERAL.—Subpart D of part IV of sub-
3 chapter A of chapter 1 of the Internal Revenue Code of
4 1986 is amended by adding at the end the following new
5 section:

6 **“SEC. 45U. PANDEMIC PREPARATION TAX CREDIT.**

7 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
8 tion 38, the pandemic preparation tax credit determined
9 under this section for the taxable year is an amount equal
10 to 20 percent of the qualified expenses paid or incurred
11 by the taxpayer during such taxable year for purposes of
12 producing personal protective equipment (including a com-
13 ponent, part, or raw material of such personal protective
14 equipment) that qualifies for addition to the Strategic Na-
15 tional Stockpile under section 8032A(a)(1) of title 41,
16 United States Code.

17 “(b) DENIAL OF DOUBLE BENEFIT.—No deduction
18 or credit shall be allowed under any other provision of this
19 chapter with respect to the amount of the credit deter-
20 mined under this section.”.

21 (b) CREDIT MADE PART OF GENERAL BUSINESS
22 CREDIT.—Section 38(b) of the Internal Revenue Code of
23 1986 is amended by striking “plus” at the end of para-
24 graph (32), striking the period at the end of paragraph
25 (33) and inserting “, plus”, and adding at the end the
26 following new paragraph:

1 “(34) the pandemic preparation credit deter-
2 mined under section 45U.”.

3 (c) CLERICAL AMENDMENT.—The table of sections
4 for subpart D of part IV of subchapter A of chapter 1
5 of such Code is amended by adding at the end the fol-
6 lowing new item:

 “Sec. 45U. Pandemic preparation credit.’”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 the date of the enactment of this Act.