

Calendar No. 624

116TH CONGRESS
2D SESSION

S. 4210

[Report No. 116–321]

To amend the Homeland Security Act of 2002 to authorize the transfer of certain equipment during a public health emergency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 2, 2020

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

DECEMBER 14, 2020

Reported by Mr. JOHNSON, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Homeland Security Act of 2002 to authorize the transfer of certain equipment during a public health emergency, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Securing Healthcare
3 and Response Equipment Act of 2020” or the “SHARE
4 Act of 2020”.

5 **SEC. 2. TRANSFER OF EQUIPMENT DURING A PUBLIC**
6 **HEALTH EMERGENCY.**

7 (a) AMENDMENT.—Title V of the Homeland Security
8 Act of 2002 (6 U.S.C. 311) is amended by adding at the
9 end the following:

10 **“SEC. 529. TRANSFER OF EQUIPMENT DURING A PUBLIC**
11 **HEALTH EMERGENCY.**

12 “(a) AUTHORIZATION OF TRANSFER OF EQUIP-
13 MENT.—During a public health emergency declared by the
14 Secretary of Health and Human Services under section
15 319(a) of the Public Health Service Act (42 U.S.C.
16 247d(a)), the Secretary, at the request of the Secretary
17 of Health and Human Services, may transfer to the De-
18 partment of Health and Human Services, on a reimburs-
19 able basis, personal protection equipment or medically nec-
20 essary equipment in the possession of the Department.

21 “(b) DETERMINATION BY SECRETARIES.—

22 “(1) IN GENERAL.—In carrying out this sec-
23 tion—

24 “(A) before requesting a transfer under
25 subsection (a), the Secretary of Health and
26 Human Services shall determine whether the

1 personal protection equipment or medically nec-
 2 essary equipment is otherwise available, includ-
 3 ing available by required performance of a con-
 4 tract or order under section 101 of the Defense
 5 Production Act of 1950 (50 U.S.C. 4511); and

6 “(B) the Secretary shall determine whether
 7 the personal protection equipment or medically
 8 necessary equipment requested to be trans-
 9 ferred under subsection (a) is excess equipment.

10 “(2) NOTIFICATION.—The Secretary of Health
 11 and Human Services and the Secretary shall each
 12 submit to Congress a notification explaining the de-
 13 termination made under subparagraphs (A) and (B),
 14 respectively, of paragraph (1).

15 “(c) REQUIRED INVENTORY.—The Secretary shall—

16 “(1) maintain an inventory of all personal pro-
 17 tection equipment and medically necessary equip-
 18 ment in the possession of the Department; and

19 “(2) make the inventory required under para-
 20 graph (1) available, on a continual basis, to—

21 “(A) the Secretary of Health and Human
 22 Services; and

23 “(B) the Committee on Appropriations and
 24 the Committee on Homeland Security and Gov-
 25 ernmental Affairs of the Senate and the Com-

1 mittee on Appropriations and the Committee on
 2 Homeland Security of the House of Representa-
 3 tives.”.

4 (b) TABLE OF CONTENTS AMENDMENT.—The table
 5 of contents in section 1(b) of the Homeland Security Act
 6 of 2002 (Public Law 107–296; 116 Stat. 2135) is amend-
 7 ed by inserting after the item relating to section 528 the
 8 following:

“Sec. 529. Transfer of equipment during a public health emergency.”.

9 **SECTION 1. SHORT TITLE.**

10 *This Act may be cited as the “Securing Healthcare and*
 11 *Response Equipment Act of 2020” or the “SHARE Act of*
 12 *2020”.*

13 **SEC. 2. TRANSFER OF EQUIPMENT DURING A PUBLIC**
 14 **HEALTH EMERGENCY.**

15 (a) AMENDMENT.—*Title V of the Homeland Security*
 16 *Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding*
 17 *at the end the following:*

18 **“SEC. 529. TRANSFER OF EQUIPMENT DURING A PUBLIC**
 19 **HEALTH EMERGENCY.**

20 “(a) AUTHORIZATION OF TRANSFER OF EQUIP-
 21 MENT.—*During a public health emergency declared by the*
 22 *Secretary of Health and Human Services under section*
 23 *319(a) of the Public Health Service Act (42 U.S.C.*
 24 *247d(a)), the Secretary, at the request of the Secretary of*
 25 *Health and Human Services, may transfer to the Depart-*

1 *ment of Health and Human Services, on a reimbursable*
 2 *basis, excess personal protective equipment or medically*
 3 *necessary equipment in the possession of the Department.*

4 “(b) *DETERMINATION BY SECRETARIES.*—

5 “(1) *IN GENERAL.*—*In carrying out this sec-*
 6 *tion—*

7 “(A) *before requesting a transfer under sub-*
 8 *section (a), the Secretary of Health and Human*
 9 *Services shall determine whether the personal*
 10 *protective equipment or medically necessary*
 11 *equipment is otherwise available; and*

12 “(B) *before initiating a transfer under sub-*
 13 *section (a), the Secretary, in consultation with*
 14 *the heads of each component within the Depart-*
 15 *ment, shall—*

16 “(i) *determine whether the personal*
 17 *protective equipment or medically necessary*
 18 *equipment requested to be transferred under*
 19 *subsection (a) is excess equipment; and*

20 “(ii) *certify that the transfer of the*
 21 *personal protective equipment or medically*
 22 *necessary equipment will not adversely im-*
 23 *pect the health or safety of officers, employ-*
 24 *ees, or contractors of the Department.*

1 “(2) *NOTIFICATION.*—*The Secretary of Health*
 2 *and Human Services and the Secretary shall each*
 3 *submit to Congress a notification explaining the de-*
 4 *termination made under subparagraphs (A) and (B),*
 5 *respectively, of paragraph (1).*

6 “(3) *REQUIRED INVENTORY.*—

7 “(A) *IN GENERAL.*—*The Secretary shall—*

8 “(i) *acting through the Chief Medical*
 9 *Officer of the Department, maintain an in-*
 10 *ventory of all personal protective equipment*
 11 *and medically necessary equipment in the*
 12 *possession of the Department; and*

13 “(ii) *make the inventory required*
 14 *under clause (i) available, on a continual*
 15 *basis, to—*

16 “(I) *the Secretary of Health and*
 17 *Human Services; and*

18 “(II) *the Committee on Appro-*
 19 *priations and the Committee on Home-*
 20 *land Security and Governmental Af-*
 21 *airs of the Senate and the Committee*
 22 *on Appropriations and the Committee*
 23 *on Homeland Security of the House of*
 24 *Representatives.*

1 “(B) *FORM.*—Each inventory required to be
 2 made available under subparagraph (A) shall be
 3 submitted in unclassified form, but may include
 4 a classified annex.”.

5 (b) *TABLE OF CONTENTS AMENDMENT.*—The table of
 6 contents in section 1(b) of the Homeland Security Act of
 7 2002 (Public Law 107–296; 116 Stat. 2135) is amended
 8 by inserting after the item relating to section 528 the fol-
 9 lowing:

“Sec. 529. *Transfer of equipment during a public health emergency.*”.

10 (c) *STRATEGIC NATIONAL STOCKPILE.*—Section
 11 319F–2(a) of the Public Health Service Act (42 U.S.C.
 12 247d–6b(a)) is amended by adding at the end the following:

13 “(6) *TRANSFERS OF ITEMS.*—The Secretary, in
 14 coordination with the Secretary of Homeland Secu-
 15 rity, may sell drugs, vaccines and other biological
 16 products, medical devices, or other supplies main-
 17 tained in the stockpile under paragraph (1) to a Fed-
 18 eral agency or private, nonprofit, State, local, tribal,
 19 or territorial entity for immediate use and distribu-
 20 tion, provided that any such items being sold are—

21 “(A) within 1 year of their expiration date;
 22 or

23 “(B) determined by the Secretary to no
 24 longer be needed in the stockpile due to advances
 25 in medical or technical capabilities.”.

1 **SEC. 3. NATIONAL STRATEGIC STOCKPILE OF PERSONAL**
 2 **PROTECTIVE EQUIPMENT FOR FIRST RE-**
 3 **SPONDERS.**

4 (a) *IN GENERAL.*—*Title V of the Homeland Security*
 5 *Act of 2002 (6 U.S.C. 311 et seq.), as amended by section*
 6 *2, is amended by adding at the end the following:*

7 **“SEC. 530. NATIONAL STRATEGIC STOCKPILE OF PERSONAL**
 8 **PROTECTIVE EQUIPMENT FOR FIRST RE-**
 9 **SPONDERS.**

10 “(a) *DEFINITIONS.*—*In this section—*

11 “(1) *the term ‘first responder’ means a ‘public*
 12 *safety officer’ as defined in section 1204 of title I of*
 13 *the Omnibus Crime Control and Safe Streets Act of*
 14 *1968 (34 U.S.C. 10284); and*

15 “(2) *the term ‘personal protective equipment’ in-*
 16 *cludes protective clothing, helmets, gloves, face shields,*
 17 *goggles, face masks, and other supplies or equipment*
 18 *designed to protect the wearer from injury or the*
 19 *spread of infection or illness, as the Secretary deter-*
 20 *mines appropriate.*

21 “(b) *AUTHORIZATION.*—

22 “(1) *IN GENERAL.*—*The Secretary may—*

23 “(A) *establish and maintain a stockpile of*
 24 *personal protective equipment for use by first re-*
 25 *sponders during an emergency declared under*
 26 *section 501(b) of the Robert T. Stafford Disaster*

1 *Relief and Emergency Assistance Act (42 U.S.C.*
 2 *5191(b)) or under the National Emergencies Act*
 3 *(50 U.S.C. 1601 et seq.); and*

4 “(B) *make such personal protective equip-*
 5 *ment available, on a reimbursable basis, to first*
 6 *responder agencies.*

7 “(2) *DETERMINATION OF SECRETARY.—The Sec-*
 8 *retary shall, in consultation with the Secretary of*
 9 *Health and Human Services, determine what quan-*
 10 *tities of equipment shall be appropriate to maintain*
 11 *the stockpile authorized under paragraph (1).*

12 “(c) *REIMBURSEMENT.—In lieu of reimbursement*
 13 *from a first responder agency under subsection (b), the Sec-*
 14 *retary may accept reimbursement from the State, or polit-*
 15 *ical subdivision thereof, in which the first responder agency*
 16 *is located.*

17 “(d) *REPORT.—Not later than 1 year after the date*
 18 *of enactment of this section, the Secretary shall submit to*
 19 *Congress a report on the progress made on establishing a*
 20 *stockpile under this section, including the quantity of mate-*
 21 *rials that have been obtained and a description of the plans*
 22 *of the Department to maintain the stockpile.”.*

23 “(b) *TECHNICAL AND CONFORMING AMENDMENT.—The*
 24 *table of contents in section 1(b) of the Homeland Security*
 25 *Act of 2002 (Public Law 107–296; 116 Stat. 2135) is*

- 1 *amended by inserting after the item relating to section 529,*
- 2 *as added by section 2, the following:*

“Sec. 530. National strategic stockpile of personal protective equipment for first responders.”.

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A BILL

To amend the Homeland Security Act of 2002 to authorize the transfer of certain equipment during a public health emergency, and for other purposes.

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