

117TH CONGRESS
1ST SESSION

S. 2495

To require the Secretary of Health and Human Services to maintain a list of the country of origin of all drugs marketed in the United States, to ban the use of Federal funds for the purchase of drugs manufactured in the People's Republic of China, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 28, 2021

Mr. COTTON (for himself, Mrs. BLACKBURN, Mr. CRUZ, Mr. SCOTT of Florida, and Mr. BRAUN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To require the Secretary of Health and Human Services to maintain a list of the country of origin of all drugs marketed in the United States, to ban the use of Federal funds for the purchase of drugs manufactured in the People's Republic of China, 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 “Protecting our Phar-
5 maceutical Supply Chain from China Act of 2021”.

1 **SEC. 2. COUNTRY OF ORIGIN OF DRUGS.**

2 (a) IN GENERAL.—Subchapter A of chapter V of the
3 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351
4 et seq.) is amended by adding at the end the following:

5 **“SEC. 524B. REGISTRY OF DRUGS PRODUCED OUTSIDE THE**
6 **US.**

7 “(a) IN GENERAL.—The Secretary shall compile and
8 maintain a list of all drugs approved under subsection (c)
9 or (j) of section 505 of this Act or licensed under sub-
10 section (a) or (k) of section 351 of the Public Health Serv-
11 ice Act, and any active ingredients in such drugs, that—

12 “(1) are manufactured outside of the United
13 States; and

14 “(2) are determined by the Secretary to be crit-
15 ical to the health and safety of consumers in the
16 United States.

17 “(b) ADDITIONAL LIST.—In conjunction with the list
18 described in subsection (a), the Secretary shall compile
19 and maintain a list of drugs included on such list that
20 are exclusively produced in, or use active or inactive ingre-
21 dients produced in, the People’s Republic of China.

22 “(c) REQUIREMENT.—The list described in sub-
23 section (a) shall, with respect to each drug included on
24 the list, provide information about the supply chain of the
25 drug, including each step in the supply chain that occurs
26 prior to importation of the drug into the United States.”.

1 (b) FEDERAL HEALTH PROGRAM PURCHASE OF
2 DRUGS.—

3 (1) IN GENERAL.—Notwithstanding any other
4 provision of law, the Department of Health and
5 Human Services, the Department of Veterans Af-
6 fairs, the Department of Defense, and any other
7 Federal health care program (as defined in section
8 1128B(f) of the Social Security Act (42 U.S.C.
9 1320a–7b(b))), with respect to the purchase of a
10 drug by such agency or program, the following shall
11 apply:

12 (A) Beginning on January 1, 2023, such
13 agency or program may purchase only drugs for
14 which 60 percent or more of the active pharma-
15 ceutical ingredients are manufactured in coun-
16 tries described in paragraph (2).

17 (B) Beginning on January 1, 2024, such
18 agency or program may purchase only drugs for
19 which 100 percent of the active pharmaceutical
20 ingredients are manufactured in countries de-
21 scribed in paragraph (2).

22 (2) COUNTRIES DESCRIBED.—The countries de-
23 scribed in this paragraph are countries—

24 (A) other than People’s Republic of China;
25 and

1 (B) that meet the health and safety stand-
2 ards of the Food and Drug Administration.

3 (3) WAIVERS.—The Secretary of Health and
4 Human Services may issue waivers of the require-
5 ments under paragraph (1) for any agency or pro-
6 gram that is unable to meet such requirements and
7 demonstrates a need for the waiver. No waiver may
8 be issued under this paragraph for drugs that are
9 purchased on or after January 1, 2026.

10 (c) LABELING REQUIREMENT.—Section 502 of the
11 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352)
12 is amended by adding at the end the following:

13 “(gg) If it is a drug and its labeling does not specify
14 the country of origin of each active ingredient contained
15 in the drug.”.

16 **SEC. 3. TEMPORARY 100 PERCENT EXPENSING FOR PHAR-**
17 **MACEUTICAL AND MEDICAL DEVICE MANU-**
18 **FACTURING PROPERTY.**

19 (a) IN GENERAL.—For purposes of section 168(k) of
20 the Internal Revenue Code of 1986, in the case of any
21 qualified pharmaceutical and medical device manufac-
22 turing property which is placed in service after December
23 31, 2019, and before January 1, 2027—

24 (1) such property shall be treated as qualified
25 property (within the meaning of such section),

1 (2) the applicable percentage otherwise deter-
2 mined under section 168(k)(6) of such Code with re-
3 spect to such property shall be 100 percent, and

4 (3) paragraph (8) of such section shall not
5 apply.

6 (b) QUALIFIED PHARMACEUTICAL AND MEDICAL
7 DEVICE MANUFACTURING PROPERTY.—For purposes of
8 this section, the term “qualified pharmaceutical and med-
9 ical device manufacturing property” means any tangible
10 property placed in service in the United States as part
11 of the construction or expansion of property for the manu-
12 facture of drugs (as defined in section 201(g) of the Fed-
13 eral Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)))
14 or medical devices (as defined in section 201(h) of such
15 Act (21 U.S.C. 321(h))).

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