

116TH CONGRESS  
2D SESSION

# S. 3573

To require personal protective equipment to be included in the strategic national stockpile, and to require the Federal Government to procure such equipment from United States sources, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 24, 2020

Mr. SCOTT of Florida introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To require personal protective equipment to be included in the strategic national stockpile, and to require the Federal Government to procure such equipment from United States sources, 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 “American-Made Pro-  
5       tection for Healthcare Workers and First Responders  
6       Act”.

1 **SEC. 2. INCLUSION OF PERSONAL PROTECTIVE EQUIP-**  
2 **MENT IN THE STRATEGIC NATIONAL STOCK-**  
3 **PILE.**

4 Section 319F–2(a) of the Public Health Service Act  
5 (42 U.S.C. 247d–6b(a)) is amended by adding at the end  
6 the following:

7 “(6) PERSONAL PROTECTIVE EQUIPMENT.—

8 “(A) IN GENERAL.—The Secretary, in co-  
9 ordination with the Secretary of Homeland Se-  
10 curity, shall ensure that the supplies of the  
11 strategic national stockpile includes personal  
12 protective equipment in a quantity that is suffi-  
13 cient for a 1-year supply during a nationwide  
14 pandemic.

15 “(B) DEFINITION.—In this paragraph, the  
16 term ‘personal protective equipment’—

17 “(i) has the meaning given such term  
18 by the Commissioner of Food and Drugs,  
19 which includes protective clothing, helmets,  
20 gloves, face shields, goggles, facemasks,  
21 and other equipment designed to protect  
22 the wearer from injury or the spread of in-  
23 fection or illness; and

24 “(ii) includes ventilators, respirators,  
25 disinfecting wipes, and hand sanitizer.

1           “(7) CONGRESSIONAL BRIEFINGS.—Not later  
 2 than 180 days after the date of enactment of this  
 3 paragraph, and every 180 days thereafter until the  
 4 date that is 5 years after the date of enactment of  
 5 this paragraph, the Secretary shall provide a brief-  
 6 ing to the Committee on Homeland Security and  
 7 Governmental Affairs of the Senate and the Com-  
 8 mittee on Homeland Security of the House of Rep-  
 9 resentatives on the inventory of drugs, vaccines and  
 10 other biological products, medical devices, and other  
 11 supplies in the strategic national stockpile.”.

12 **SEC. 3. NATIONAL STRATEGIC STOCKPILE OF PERSONAL**  
 13 **PROTECTIVE EQUIPMENT FOR FIRST RE-**  
 14 **SPONDERS.**

15           (a) IN GENERAL.—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. NATIONAL STRATEGIC STOCKPILE OF PERSONAL**  
 19 **PROTECTIVE EQUIPMENT FOR FIRST RE-**  
 20 **SPONDERS.**

21           “(a) DEFINITIONS.—In this section—

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

1 “(2) the term ‘personal protective equipment’—

2 “(A) has the meaning given such term in  
3 paragraph (6) of section 319F–2(a) of the Pub-  
4 lic Health Service Act (42 U.S.C. 247d–6b(a));  
5 and

6 “(B) includes such other equipment as de-  
7 termined appropriate by the Secretary.

8 “(b) REQUIREMENT.—The Secretary shall—

9 “(1) establish and maintain a national strategic  
10 stockpile of personal protective equipment for use by  
11 first responders during an emergency declared under  
12 section 501(b) of the Robert T. Stafford Disaster  
13 Relief and Emergency Assistance Act (42 U.S.C.  
14 5191(b)) or under the National Emergencies Act  
15 (50 U.S.C. 1601 et seq.); and

16 “(2) make such personal protective equipment  
17 available, on a reimbursable basis, to first responder  
18 agencies.

19 “(c) REIMBURSEMENT.—In lieu of reimbursement  
20 from a first responder agency under subsection (b), the  
21 Secretary may accept reimbursement from the State, or  
22 political subdivision thereof, in which the first responder  
23 agency is located.”.

24 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
25 The table of contents in section 1(b) of the Homeland Se-

1 curity Act of 2002 (Public Law 107–296; 116 Stat. 2135)  
 2 is amended by inserting after the item relating to section  
 3 528 the following:

“Sec. 529. National strategic stockpile of personal protective equipment for  
 first responders.”.

4 **SEC. 4. PRE-DISASTER CONTRACTS.**

5 The Secretary of Health and Human Services (re-  
 6 ferred to in this section as the “Secretary”) shall enter  
 7 into contracts with suppliers of personal protective equip-  
 8 ment (as defined in section 319F–2(a)(6)(B) of the Public  
 9 Health Service Act (as amended by section 2)) for the pro-  
 10 curement by the Federal Government of such equipment  
 11 in the event of a public health emergency declared under  
 12 section 319 of the Public Health Service Act (42 U.S.C.  
 13 247d), under section 501(b) of the Robert T. Stafford Dis-  
 14 aster Relief and Emergency Assistance Act (42 U.S.C.  
 15 5191(b)), or under the National Emergencies Act (50  
 16 U.S.C. 1601 et seq.).

17 **SEC. 5. PROHIBITION ON PROCUREMENT OF PERSONAL**  
 18 **PROTECTIVE EQUIPMENT FROM COVERED**  
 19 **FOREIGN ENTITIES.**

20 (a) **PROCUREMENT PROHIBITION.**—An executive  
 21 agency may not procure by contract, subcontract, grant,  
 22 or cooperative agreement any personal protective equip-  
 23 ment sourced, manufactured, or assembled in whole or in  
 24 part by a covered foreign entity. To the extent possible,

1 executive agencies shall procure personal protective equip-  
2 ment sourced, manufactured, or assembled in whole or in  
3 part in the United States.

4 (b) PROHIBITION ON USE OF FEDERAL FUNDS FOR  
5 FOREIGN PROCUREMENT.—No Federal funds, whether  
6 made available by contract, grant, or cooperative agree-  
7 ment, may be used to procure personal protective equip-  
8 ment sourced, manufactured, or assembled in whole or in  
9 part by a covered foreign entity.

10 (c) EFFECTIVE DATE.—The prohibitions under sub-  
11 sections (a) and (b) shall take effect on the date that is  
12 one year after the date of the enactment of this Act.

13 **SEC. 6. INELIGIBILITY FOR FEDERAL CONTRACTING AS RE-**  
14 **SULT OF UNREASONABLE FAILURE TO PER-**  
15 **FORM A CONTRACT FOR THE PROCUREMENT**  
16 **OF PERSONAL PROTECTIVE EQUIPMENT.**

17 Any Federal contractor or subcontractor determined  
18 by the head of an executive agency to have unreasonably  
19 failed to perform a contract for the procurement of per-  
20 sonal protective equipment shall be ineligible to receive a  
21 Federal contract for a period of 10 years following such  
22 determination.

23 **SEC. 7. DEFINITIONS.**

24 In this Act:

1           (1) COVERED FOREIGN ENTITY.—The term  
2 “covered foreign entity” means—

3           (A) a covered entity designated by the Sec-  
4 retary of Commerce;

5           (B) an entity included on the Consolidated  
6 Screening List;

7           (C) any entity that is subject to  
8 extrajudicial direction from a foreign govern-  
9 ment, as determined by the Secretary of Home-  
10 land Security;

11           (D) any entity the Secretary of Homeland  
12 Security, in coordination with the Director of  
13 National Intelligence and the Secretary of De-  
14 fense, determines poses a national security risk;

15           (E) any entity domiciled in the People’s  
16 Republic of China or subject to influence or  
17 control by the Government of the People’s Re-  
18 public of China or the Communist Party of the  
19 People’s Republic of China, as determined by  
20 the Secretary of Homeland Security; or

21           (F) any subsidiary or affiliate of an entity  
22 described in subparagraphs (A) through (D).

23           (2) EXECUTIVE AGENCY.—The term “executive  
24 agency” has the meaning given the term in section  
25 133 of title 41, United States Code.

1           (3) PERSONAL PROTECTIVE EQUIPMENT.—The  
2           term “personal protective equipment” has the mean-  
3           ing given such term in section 319F–2(a)(6)(B) of  
4           the Public Health Service Act (as amended by sec-  
5           tion 2).

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