

118TH CONGRESS
1ST SESSION

H. R. 6305

To amend title III of the Public Health Service Act to impose a limitation on regulations relating to the control of communicable diseases, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 8, 2023

Mrs. LUNA (for herself, Mrs. MILLER of Illinois, and Mr. CRANE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title III of the Public Health Service Act to impose a limitation on regulations relating to the control of communicable diseases, 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 “Terminate CDC Over-
5 reach Act”.

1 **SEC. 2. LIMITATION ON REGULATIONS RELATING TO CON-**
2 **TROL OF COMMUNICABLE DISEASES.**

3 (a) SCOPE OF AUTHORITY.—Section 361 of the Pub-
4 lic Health Service Act (42 U.S.C. 264) is amended—

5 (1) in subsection (a), by striking “of the Sec-
6 retary” and inserting “of the Secretary, and subject
7 to subsection (d),”; and

8 (2) in subsection (d)—

9 (A) in paragraph (1), by striking “Regula-
10 tions prescribed under this section may provide
11 for the apprehension and examination of any
12 individual” and inserting “Subject to paragraph
13 (5), regulations may only be prescribed under
14 this section to prevent the introduction, trans-
15 mission, or spread of communicable diseases
16 among individuals”;

17 (B) in paragraph (2), in the matter pre-
18 ceding subparagraph (A), by inserting “as dem-
19 onstrated through a positive clinical test, rig-
20 orous contact tracing, or clinical presentation”
21 after “such disease”; and

22 (C) by adding at the end the following:

23 “(3) The term ‘clinical test’ means a test used in the
24 collection, preparation, analysis, or in vitro clinical exam-
25 ination of specimens taken or derived from the human
26 body for purposes of the diagnosis of a particular disease

1 by a health care professional, including any such test that
2 is—

3 “(A) designed, manufactured, and used within
4 a single laboratory; or

5 “(B) approved, cleared, granted marketing au-
6 thorization, or authorized for emergency use for
7 such purpose under the Federal Food, Drug, and
8 Cosmetic Act.

9 “(4)(A) Effective beginning on the date of the enact-
10 ment of the Terminate CDC Overreach Act, the Secretary
11 may not, except as specified in subparagraph (B), issue
12 a rule under this section with respect to control of a com-
13 municable disease that is unrelated to the prevention of
14 the interstate spread of disease by identifying, isolating,
15 or destroying the disease itself.

16 “(B) Subparagraph (A) shall not apply with respect
17 to—

18 “(i) the authority of the Secretary to carry out
19 any provision of the Federal Food, Drug, and Cos-
20 metic Act; or

21 “(ii) the authorities of the Commissioner of
22 Food and Drugs under this section (as in effect
23 prior to the day before the date of the enactment of
24 this Act).”.

1 (b) PROCEDURE FOR DISAPPROVAL.—Section 361(d)
2 of the Public Health Service Act (42 U.S.C. 264(d)) as
3 amended by subsection (a) is further amended by adding
4 at the end the following:

5 “(5)(A) Effective beginning on the date of the enact-
6 ment of the Terminate CDC Overreach Act, the Secretary
7 may prescribe a regulation with respect to control of a
8 communicable disease—

9 (i) that is intended to be applied with respect
10 to individuals who may be infected with a commu-
11 nicable disease in a qualifying stage and who are
12 reasonably believed—

13 (I) to be moving or about to move from
14 a State to another State; or

15 (II) to be a probable source of infection
16 to individuals who, while infected with such dis-
17 ease in a qualifying stage, will be moving from
18 a State to another State;

19 (ii) which shall be transmitted to the Con-
20 gress; and

21 (iii) which shall only be effective until the ear-
22 lier of—

23 (I) the date on which the Secretary deter-
24 mines such regulation is no longer necessary; or

1 “(II) the date on which a joint resolution
2 of disapproval described in subparagraph (B) is
3 enacted.

4 “(B) For purposes of subparagraph (A), the term
5 ‘joint resolution of disapproval’ means a joint resolution—

6 “(i) which does not have a preamble;

7 “(ii) the title of which is as follows: ‘Joint reso-
8 lution relating to the disapproval of regulations
9 under section 361 of the Public Health Service Act
10 relating to _____’ (The blank space being appro-
11 priately filled in); and

12 “(iii) the matter after the resolving clause of
13 which is as follows: ‘That Congress disapproves the
14 regulations issued under section 361(d)(5) of the
15 Public Health Service Act relating to _____, and
16 such regulations shall have no force or effect.’ (The
17 blank space being appropriately filled in).

18 “(C) Subparagraph (A) shall not apply with respect
19 to—

20 “(i) the authority of the Secretary to carry out
21 any provision of the Federal Food, Drug, and Cos-
22 metic Act, including any regulation providing for
23 such controls as may be necessary to ensure that
24 blood products or other specimens that may carry a

1 communicable disease in a qualifying stage do not
2 move from a State to another State; or

3 “(ii) the authorities of the Commissioner of
4 Food and Drugs under this section (as in effect
5 prior to the day before the date of the enactment of
6 this Act).”.

7 (c) SUB-REGULATORY GUIDANCE.—Section 361 of
8 the Public Health Service Act (42 U.S.C. 264) is amended
9 by adding at the end the following:

10 “(f)(1) Effective beginning on the date of the enact-
11 ment of the Terminate CDC Overreach Act, the Secretary
12 may not publish any rule or sub-regulatory recommenda-
13 tion, guidance, or policy with respect to control of a com-
14 municable disease that is intended to have broad applica-
15 bility unless the Secretary includes in such sub-regulatory
16 recommendation, guidance, or policy (and publishes on the
17 public website of the Department of Health and Human
18 Services) the evidence supporting the sub-regulatory rec-
19 ommendation, guidance, or policy, which shall include, up-
20 dated science briefs, and such other evidence as may be
21 necessary, such as—

22 “(A) scientific data or studies; or

23 “(B) clinical observation or expertise.

24 “(2) For purposes of this subsection, the term ‘broad
25 applicability’ means with respect to any sub-regulatory

1 recommendation, guidance, or policy with respect to con-
2 trol of a communicable disease any such recommendation,
3 guidance, or policy that is intended to influence the gen-
4 eral public.

5 “(3) Paragraph (1) shall not apply with respect to—

6 “(A) the authority of the Secretary to carry out
7 any provision of the Federal Food, Drug, and Cos-
8 metic Act; or

9 “(B) the authorities of the Commissioner of
10 Food and Drugs under this section (as in effect
11 prior to the day before the date of the enactment of
12 this Act).”.

13 (d) EXPEDITED CONSIDERATION OF JOINT RESOLU-
14 TION OF DISAPPROVAL.—Section 361 of the Public
15 Health Service Act (42 U.S.C. 264), as amended by sub-
16 section (c), is further amended by adding at the end the
17 following:

18 “(g) FAST TRACK CONSIDERATION IN HOUSE OF
19 REPRESENTATIVES.—

20 “(1) RECONVENING.—Upon receipt of a regula-
21 tion under subsection (d)(5), the Speaker, if the
22 House would otherwise be adjourned, shall notify the
23 Members of the House that, pursuant to this sec-
24 tion, the House shall convene not later than the sec-
25 ond calendar day after receipt of such regulation.

1 “(2) REPORTING AND DISCHARGE.—Any com-
2 mittee of the House of Representatives to which a
3 joint resolution is referred shall report it to the
4 House not later than 5 calendar days after the date
5 of receipt of the regulation under subsection (d)(5).
6 If a committee fails to report the joint resolution
7 within that period, the committee shall be dis-
8 charged from further consideration of the joint reso-
9 lution and the joint resolution shall be referred to
10 the appropriate calendar.

11 “(3) PROCEEDING TO CONSIDERATION.—After
12 each committee authorized to consider a joint resolu-
13 tion reports it to the House or has been discharged
14 from its consideration, it shall be in order, not later
15 than the sixth day after Congress receives the regu-
16 lation under subsection (d)(5), to move to proceed to
17 consider the joint resolution in the House. All points
18 of order against the motion are waived. Such a mo-
19 tion shall not be in order after the House has dis-
20 posed of a motion to proceed on the joint resolution.
21 The previous question shall be considered as ordered
22 on the motion to its adoption without intervening
23 motion. The motion shall not be debatable. A motion
24 to reconsider the vote by which the motion is dis-
25 posed of shall not be in order.

1 “(4) CONSIDERATION.—The joint resolution
2 shall be considered as read. All points of order
3 against the joint resolution and against its consider-
4 ation are waived. The previous question shall be con-
5 sidered as ordered on the joint resolution to its pas-
6 sage without intervening motion except two hours of
7 debate equally divided and controlled by the pro-
8 ponent and an opponent. A motion to reconsider the
9 vote on passage of the joint resolution shall not be
10 in order.

11 “(h) FAST TRACK CONSIDERATION IN SENATE.—

12 “(1) RECONVENING.—Upon receipt of a regula-
13 tion under subsection (d)(5), if the Senate has ad-
14 journed or recessed for more than 2 days, the major-
15 ity leader of the Senate, after consultation with the
16 minority leader of the Senate, shall notify the Mem-
17 bers of the Senate that, pursuant to this section, the
18 Senate shall convene not later than the second cal-
19 endar day after receipt of such message.

20 “(2) PLACEMENT ON CALENDAR.—Upon intro-
21 duction in the Senate, the joint resolution shall be
22 placed immediately on the calendar.

23 “(3) FLOOR CONSIDERATION.—

24 “(A) IN GENERAL.—Notwithstanding Rule
25 XXII of the Standing Rules of the Senate, it is

1 in order at any time during the period begin-
2 ning on the 4th day after the date on which
3 Congress receives a regulation under subsection
4 (d)(5) and ending on the 6th day after the date
5 on which Congress receives a regulation under
6 subsection (d)(5) (even though a previous mo-
7 tion to the same effect has been disagreed to)
8 to move to proceed to the consideration of the
9 joint resolution, and all points of order against
10 the joint resolution (and against consideration
11 of the joint resolution) are waived. The motion
12 to proceed is not debatable. The motion is not
13 subject to a motion to postpone. A motion to
14 reconsider the vote by which the motion is
15 agreed to or disagreed to shall not be in order.
16 If a motion to proceed to the consideration of
17 the resolution is agreed to, the joint resolution
18 shall remain the unfinished business until dis-
19 posed of.

20 “(B) DEBATE.—Debate on the joint reso-
21 lution, and on all debatable motions and ap-
22 peals in connection therewith, shall be limited
23 to not more than 10 hours, which shall be di-
24 vided equally between the majority and minority
25 leaders or their designees. A motion further to

1 limit debate is in order and not debatable. An
2 amendment to, or a motion to postpone, or a
3 motion to proceed to the consideration of other
4 business, or a motion to recommit the joint res-
5 olution is not in order.

6 “(C) VOTE ON PASSAGE.—The vote on
7 passage shall occur immediately following the
8 conclusion of the debate on a joint resolution,
9 and a single quorum call at the conclusion of
10 the debate if requested in accordance with the
11 rules of the Senate.

12 “(D) RULINGS OF THE CHAIR ON PROCE-
13 DURE.—Appeals from the decisions of the Chair
14 relating to the application of the rules of the
15 Senate, as the case may be, to the procedure re-
16 lating to a joint resolution shall be decided
17 without debate.

18 “(i) RULES RELATING TO SENATE AND HOUSE OF
19 REPRESENTATIVES.—

20 “(1) COORDINATION WITH ACTION BY OTHER
21 HOUSE.—If, before the passage by one House of a
22 joint resolution of that House, that House receives
23 from the other House a joint resolution, then the fol-
24 lowing procedures shall apply:

1 “(A) The joint resolution of the other
2 House shall not be referred to a committee.

3 “(B) With respect to a joint resolution of
4 the House receiving the resolution—

5 “(i) the procedure in that House shall
6 be the same as if no joint resolution had
7 been received from the other House; but

8 “(ii) the vote on passage shall be on
9 the joint resolution of the other House.

10 “(2) TREATMENT OF JOINT RESOLUTION OF
11 OTHER HOUSE.—If one House fails to introduce or
12 consider a joint resolution under this section, the
13 joint resolution of the other House shall be entitled
14 to expedited floor procedures under this section.

15 “(3) TREATMENT OF COMPANION MEASURES.—
16 If, following passage of the joint resolution in the
17 Senate, the Senate then receives the companion
18 measure from the House of Representatives, the
19 companion measure shall not be debatable.

20 “(4) CONSIDERATION FOLLOWING PRESI-
21 DENTIAL VETO.—If the President vetoes the joint
22 resolution debate on a veto message in the Senate
23 under this section shall be 1 hour equally divided be-
24 tween the majority and minority leaders or their des-
25 ignees.

1 “(5) RULES OF HOUSE OF REPRESENTATIVES
2 AND SENATE.—This subsection and subsections
3 (d)(5), (g), and (h) are enacted by Congress—

4 “(A) as an exercise of the rulemaking
5 power of the Senate and House of Representa-
6 tives, respectively, and as such are deemed a
7 part of the rules of each House, respectively,
8 but applicable only with respect to the proce-
9 dure to be followed in that House in the case
10 of a joint resolution, and supersede other rules
11 only to the extent inconsistent with such rules;
12 and

13 “(B) with full recognition of the constitu-
14 tional right of either House to change the rules
15 (so far as relating to the procedure of that
16 House) at any time, in the same manner, and
17 to the same extent as in the case of any other
18 rule of that House.”.

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