

113TH CONGRESS  
1ST SESSION

# S. 961

To improve access to emergency medical services, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 15, 2013

Mr. BLUNT 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 improve access to emergency medical services, 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 “Health Care Safety  
5 Net Enhancement Act of 2013”.

6 **SEC. 2. CONSTITUTIONAL AUTHORITY.**

7 The constitutional authority upon which this Act  
8 rests is the power of the Congress to provide for the gen-  
9 eral welfare, to regulate commerce, and to make all laws  
10 which shall be necessary and proper for carrying into exe-

1 cution Federal powers, as enumerated in section 8 of arti-  
 2 cle I of the Constitution of the United States.

3 **SEC. 3. PROTECTION FOR EMERGENCY AND RELATED**  
 4 **SERVICES FURNISHED PURSUANT TO**  
 5 **EMTALA.**

6 Section 224(g) of the Public Health Service Act (42  
 7 U.S.C. 233(g)) is amended—

8 (1) in paragraph (4), by striking “An entity”  
 9 and inserting “Subject to paragraph (6), an entity”;  
 10 and

11 (2) by adding at the end the following:

12 “(6)(A) For purposes of this section—

13 “(i) an entity described in subparagraph  
 14 (B) shall be considered to be an entity de-  
 15 scribed in paragraph (4); and

16 “(ii) the provisions of this section shall  
 17 apply to an entity described in subparagraph  
 18 (B) in the same manner as such provisions  
 19 apply to an entity described in paragraph (4),  
 20 except that—

21 “(I) notwithstanding paragraph  
 22 (1)(B), the deeming of any entity described  
 23 in subparagraph (B), or of an officer, gov-  
 24 erning board member, employee, con-  
 25 tractor, or on-call provider of such an enti-

1 ty, to be an employee of the Public Health  
2 Service for purposes of this section shall  
3 apply only with respect to items and serv-  
4 ices that are furnished to an individual  
5 pursuant to section 1867 of the Social Se-  
6 curity Act and to post stabilization services  
7 (as defined in subparagraph (D)) furnished  
8 to such an individual;

9 “(II) nothing in paragraph (1)(D)  
10 shall be construed as preventing a physi-  
11 cian or physician group described in sub-  
12 paragraph (B)(ii) from making the appli-  
13 cation referred to in such paragraph or as  
14 conditioning the deeming of a physician or  
15 physician group that makes such an appli-  
16 cation upon receipt by the Secretary of an  
17 application from the hospital or emergency  
18 department that employs or contracts with  
19 the physician or group, or enlists the phy-  
20 sician or physician group as an on-call pro-  
21 vider;

22 “(III) notwithstanding paragraph (3),  
23 this paragraph shall apply only with re-  
24 spect to causes of action arising from acts

1 or omissions that occur on or after Janu-  
2 ary 1, 2014;

3 “(IV) paragraph (5) shall not apply to  
4 a physician or physician group described in  
5 subparagraph (B)(ii);

6 “(V) the Attorney General, in con-  
7 sultation with the Secretary, shall make  
8 separate estimates under subsection (k)(1)  
9 with respect to entities described in sub-  
10 paragraph (B) and entities described in  
11 paragraph (4) (other than those described  
12 in subparagraph (B)), and the Secretary  
13 shall establish separate funds under sub-  
14 section (k)(2) with respect to such groups  
15 of entities, and any appropriations under  
16 this subsection for entities described in  
17 subparagraph (B) shall be separate from  
18 the amounts authorized by subsection  
19 (k)(2);

20 “(VI) notwithstanding subsection  
21 (k)(2), the amount of the fund established  
22 by the Secretary under such subsection  
23 with respect to entities described in sub-  
24 paragraph (B) may exceed a total of  
25 \$10,000,000 for a fiscal year; and

1                   “(VII) subsection (m) shall not apply  
2                   to entities described in subparagraph (B).

3                   “(B) An entity described in this subparagraph  
4                   is—

5                   “(i) a hospital or an emergency depart-  
6                   ment to which section 1867 of the Social Secu-  
7                   rity Act applies; and

8                   “(ii) a physician or physician group that is  
9                   employed by, is under contract with, or is an  
10                  on-call provider of such hospital or emergency  
11                  department, to furnish items and services to in-  
12                  dividuals under such section.

13                  “(C) For purposes of this paragraph, the term  
14                  ‘on-call provider’ means a physician or physician  
15                  group that—

16                  “(i) has full, temporary, or locum tenens  
17                  staff privileges at a hospital or emergency de-  
18                  partment to which section 1867 of the Social  
19                  Security Act applies; and

20                  “(ii) is not employed by or under contract  
21                  with such hospital or emergency department,  
22                  but agrees to be ready and available to provide  
23                  services pursuant to section 1867 of the Social  
24                  Security Act or post-stabilization services to in-  
25                  dividuals being treated in the hospital or emer-

1           agency department with or without compensation  
2           from the hospital or emergency department.

3           “(D) For purposes of this paragraph, the term  
4           ‘post stabilization services’ means, with respect to an  
5           individual who has been treated by an entity de-  
6           scribed in subparagraph (B) for purposes of com-  
7           plying with section 1867 of the Social Security Act,  
8           services that are—

9                   “(i) related to the condition that was so  
10           treated; and

11                   “(ii) provided after the individual is sta-  
12           bilized in order to maintain the stabilized condi-  
13           tion or to improve or resolve the condition of  
14           the individual.

15           “(E)(i) Nothing in this paragraph (or in any  
16           other provision of this section as such provision ap-  
17           plies to entities described in subparagraph (B) by  
18           operation of subparagraph (A)) shall be construed as  
19           authorizing or requiring the Secretary to make pay-  
20           ments to such entities, the budget authority for  
21           which is not provided in advance by appropriation  
22           Acts.

23                   “(ii) The Secretary shall limit the total amount  
24           of payments under this paragraph for a fiscal year  
25           to the total amount appropriated in advance by ap-

1       appropriation Acts for such purpose for such fiscal  
2       year. If the total amount of payments that would  
3       otherwise be made under this paragraph for a fiscal  
4       year exceeds such total amount appropriated, the  
5       Secretary shall take such steps as may be necessary  
6       to ensure that the total amount of payments under  
7       this paragraph for such fiscal year does not exceed  
8       such total amount appropriated.”.

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