116TH CONGRESS
2d Session

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To prevent States from using or distributing resources during the COVID–19 national emergency in accordance with a State policy that discriminates on the basis of disability, and for other purposes.

IN THE SENATE OF THE UNITED STATES

introduced the following bill; which was read twice and referred to the Committee on

A BILL

To prevent States from using or distributing resources during the COVID–19 national emergency in accordance with a State policy that discriminates on the basis of disability, 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 “Ending Qualifications that are Unjust for Access to Lifesaving Care Act” or the
5 “EQUAL Care Act”.

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SEC. 2. PROHIBITION ON DISCRIMINATION ON THE BASIS OF DISABILITY WITH RESPECT TO THE DISTRIBUTION OR USE OF RESOURCES DURING COVID-19 NATIONAL EMERGENCY.

(a) In General.—No State shall receive a resource, including a ventilator, from the Strategic National Stockpile, or through any defense production contract, during the COVID-19 national emergency if the Secretary of Health and Human Services, in coordination with the Secretary of Homeland Security, determines under subsection (b) that the State has in effect a policy that discriminates on the basis of disability with respect to the use or distribution of such resource.

(b) Determinations.—

(1) In General.—Notwithstanding section 319F–2(a) of the Public Health Service Act (42 U.S.C. 247d–6b(a)) or any other provision of law, the Secretary of Health and Human Services, in coordination with the Secretary of Homeland Security, shall, prior to the distribution of any resource from the Strategic National Stockpile, or through any defense production contract, to a State, certify that the policy of that State in using or distributing that resource is not discriminatory on the basis of disability.
(2) Period for Holding Resources.—If the
Secretary, in coordination with the Secretary of
Homeland Security, determines under paragraph (1)
that the policy of a State with respect to the use or
distribution of a resource described in such para-
graph is discriminatory on the basis of disability, the
Secretary, or Secretary of Homeland Security (as
applicable), shall ensure that such resource is with-
held from the State until the State modifies the pol-
icy so that it is no longer so discriminatory.

(3) Rule of Construction.—A certification
under paragraph (1) shall—

(A) apply only with respect to the resource
in question, and the allocation of such resource
within the State; and

(B) shall not have any effect on the deter-
mination of whether the State is in violation of
any other Federal law or have any effect on en-
forcement under any other Federal law.

(c) Definitions.—In this section:

(1) COVID–19 National Emergency.—The
term "COVID–19 national emergency" means the
period in which the national emergency declared by
the President under the National Emergencies Act
(50 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019 (COVID-19), is in effect.

(2) DEFENSE PRODUCTION CONTRACT.—The term “defense production contract” means a contract that the Federal Government has entered into under the Defense Production Act of 1950 (50 U.S.C. 4501 et seq.).

(3) DISABILITY.—The term “disability” has the meaning given such term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(4) STRATEGIC NATIONAL STOCKPILE.—The term “Strategic National Stockpile” means, the stockpile established under section 319F–2(a) of the Public Health Service Act (42 U.S.C. 247d–6b(a)).