

AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend the Homeland Security Act of 2002 to authorize the transfer of certain equipment during a public health emergency.

IN THE SENATE OF THE UNITED STATES—117th Cong., 1st Sess.

S. 1306

To provide for domestic sourcing of personal protective equipment, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. JOHNSON

Viz:

1 Strike section 3(f) and insert the following:

2 (f) AUTHORIZATION OF TRANSFER OF EQUIP-
3 MENT.—

4 (1) IN GENERAL.—A covered Secretary may
5 transfer to the Strategic National Stockpile estab-
6 lished under section 319F–2 of the Public Health
7 Service Act (42 U.S.C. 247d–6b) any excess per-
8 sonal protective equipment acquired under a con-
9 tract executed pursuant to subsection (b).

10 (2) TRANSFER OF EQUIPMENT DURING A PUB-
11 LIC HEALTH EMERGENCY.—

1 (A) AMENDMENT.—Title V of the Home-
2 land Security Act of 2002 (6 U.S.C. 311 et
3 seq.) is amended by adding at the end the fol-
4 lowing:

5 **“SEC. 529. TRANSFER OF EQUIPMENT DURING A PUBLIC**
6 **HEALTH EMERGENCY.**

7 “(a) AUTHORIZATION OF TRANSFER OF EQUIP-
8 MENT.—During a public health emergency declared by the
9 Secretary of Health and Human Services under section
10 319(a) of the Public Health Service Act (42 U.S.C.
11 247d(a)), the Secretary, at the request of the Secretary
12 of Health and Human Services, may transfer to the De-
13 partment of Health and Human Services, on a reimburs-
14 able basis, excess personal protective equipment or medi-
15 cally necessary equipment in the possession of the Depart-
16 ment.

17 “(b) DETERMINATION BY SECRETARIES.—

18 “(1) IN GENERAL.—In carrying out this sec-
19 tion—

20 “(A) before requesting a transfer under
21 subsection (a), the Secretary of Health and
22 Human Services shall determine whether the
23 personal protective equipment or medically nec-
24 essary equipment is otherwise available; and

1 “(B) before initiating a transfer under
2 subsection (a), the Secretary, in consultation
3 with the heads of each component within the
4 Department, shall—

5 “(i) determine whether the personal
6 protective equipment or medically nec-
7 essary equipment requested to be trans-
8 ferred under subsection (a) is excess equip-
9 ment; and

10 “(ii) certify that the transfer of the
11 personal protective equipment or medically
12 necessary equipment will not adversely im-
13 pact the health or safety of officers, em-
14 ployees, or contractors of the Department.

15 “(2) NOTIFICATION.—The Secretary of Health
16 and Human Services and the Secretary shall each
17 submit to Congress a notification explaining the de-
18 termination made under subparagraphs (A) and (B),
19 respectively, of paragraph (1).

20 “(3) REQUIRED INVENTORY.—

21 “(A) IN GENERAL.—The Secretary shall—

22 “(i) acting through the Chief Medical
23 Officer of the Department, maintain an in-
24 ventory of all personal protective equip-

1 ment and medically necessary equipment in
2 the possession of the Department; and

3 “(ii) make the inventory required
4 under clause (i) available, on a continual
5 basis, to—

6 “(I) the Secretary of Health and
7 Human Services; and

8 “(II) the Committee on Appro-
9 priations and the Committee on
10 Homeland Security and Governmental
11 Affairs of the Senate and the Com-
12 mittee on Appropriations and the
13 Committee on Homeland Security of
14 the House of Representatives.

15 “(B) FORM.—Each inventory required to
16 be made available under subparagraph (A) shall
17 be submitted in unclassified form, but may in-
18 clude a classified annex.”.

19 (B) TABLE OF CONTENTS AMENDMENT.—
20 The table of contents in section 1(b) of the
21 Homeland Security Act of 2002 (Public Law
22 107–296; 116 Stat. 2135) is amended by in-
23 serting after the item relating to section 528
24 the following:

“Sec. 529. Transfer of equipment during a public health emergency.”.

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

5 “(6) TRANSFERS OF ITEMS.—The Secretary, in
6 coordination with the Secretary of Homeland Secu-
7 rity, may sell drugs, vaccines and other biological
8 products, medical devices, or other supplies main-
9 tained in the stockpile under paragraph (1) to a
10 Federal agency or private, nonprofit, State, local,
11 tribal, or territorial entity for immediate use and
12 distribution, provided that any such items being sold
13 are—

14 “(A) within 1 year of their expiration date;

15 or

16 “(B) determined by the Secretary to no
17 longer be needed in the stockpile due to ad-
18 vances in medical or technical capabilities.”.