
IN THE CONGRESS OF THE UNITED STATES

APRIL 12, 2020

Mr. EMPERIO (for himself, Mr. BEAN, Ms. BERRY, Mr. BO, Mr. CAMPBELL, Mr. CROSS, Mr. CUBE, Mr. HAINES, Mr. HERSEY, Mr. HILL, Mr. LaMONTAGNE, Mr. MCKENNA, Mr. PETE, Mr. RICCA, Mr. ROCKEFELLER, Ms. SERVINE, Mr. SONN Mr. VITA) introduced the following bill;

A BILL

To allow greater access to safe and effective contraception.

Be it enacted by the House of Representatives of the United States of America in Congress Assembled,

SECTION 1. SHORT TITLE; ETC.

- (a) SHORT TITLE.— This Act may be cited as the “Contraception Accessibility Act”, or acronymically as the ‘CAA’
- (b) REFERENCE TO THE SECRETARY.— Except as otherwise expressly provided, in this Act, the “Secretary” refers to the Secretary of Health and Human Services.

SECTION 2. FINDINGS.

- (a) Whereas certain contraceptives such as ‘Plan B’, containing dosages up to three times larger than the same formula of the daily oral contraceptive, are designated as “over-the-counter” drugs, while other smaller dosage contraceptive drugs still require prescription.
- (b) Over 43 million women are at risk of unintended pregnancy. In 2011, 45 percent of all pregnancies in the United States were unintended.
- (c) Unintended pregnancies cost billions of dollars each year.
- (d) Expanding access to birth control can mitigate financial burdens as well as the emotional and physiological consequences of an unintended pregnancy.

SECTION 3. FAST-TRACKING THE APPLICATION PROCESS FOR NON-PRESCRIPTION CONTRACEPTIVE DRUGS.

- (a) **PRIORITY REVIEW.**— The Secretary shall give priority review (as defined in 21 U.S.C. 360ff(a)(1)) to any supplemental application submitted under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) for any contraceptive drug granted that—
- (1) the application is with regard to a drug intended for regular use; and
 - (2) the approval of such an application, with respect to individuals of the age 18 or older, would exempt such a drug from section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)(1))
- (b) **WAIVING OF FEES.**— The Secretary shall waive the fees under section 736(a)(1) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 379h(a)(1)) with regard to a supplemental application receiving priority review under subsection (a).
- (c) **OVER-THE-COUNTER AVAILABILITY.**— Regardless of any other provision of law, with respect to individuals of the age 18 or older, a contraceptive drug eligible for priority review (under subsection (a)) shall be subject to section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)(1)), including after such a supplemental application’s approval under subsection (a)(2).

SECTION 4. INCREASING FREEDOM FOR WOMEN TO MAKE THEIR OWN DECISIONS.

- (a) **REPEAL ON TAX FOR OVER-THE-COUNTER DRUGS MEDICATION.**—
- (1) **HEALTH SAVINGS ACCOUNTS.**— Subparagraph (A) of section 223(d)(2) of the Internal Revenue Code of 1986 is amended by striking “Such term” and all that follows through the period.
 - (2) **ARCHER HEALTH SAVINGS ACCOUNTS.**— Subparagraph (A) of section 220(d)(2) of the Internal Revenue Code of 1986 is amended by striking “Such term” and all that follows through the period.
 - (3) **ARRANGEMENTS AND HEALTH REIMBURSEMENT ARRANGEMENTS FOR HEALTH FLEXIBLE SPENDING.**— Section 106 of the Internal Revenue Code of 1986 is amended by striking subsection (f) and by redesignating subsection (g) as subsection (f).

(4) EFFECTIVE DATES.—

(A) SAVINGS ACCOUNTS.— The amendments made in paragraph (1) and (2) shall be with respect to amounts paid with respect to the taxable years beginning December 31st, 2020.

(B) REIMBURSEMENTS.— The amendment made by paragraph (3) shall apply to expenses incurred with respect to taxable years beginning after December 31, 2019.

(b) REPEAL OF LIMITATIONS ON CONTRIBUTIONS TO FLEXIBLE SPENDING ACCOUNTS.—

(1) IN GENERAL.— Section 125 of the Internal Revenue Code of 1986 is amended by striking subsection (i)

(c) EFFECTIVE DATE.— The amendment made by this section shall apply to taxable years beginning December 31st, 2020.