117TH CONGRESS
2D SESSION

S. _____

To provide for national uniformity for reproductive health products.

IN THE SENATE OF THE UNITED STATES

_____

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

A BILL

To provide for national uniformity for reproductive health products.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protecting National Access to Reproductive Care Act of 2022''.

SEC. 2. PURPOSE.

(a) IN GENERAL.—This section confirms the intention of Congress that, with respect to reproductive health products approved, licensed, cleared, or authorized by the Food and Drug Administration for specific uses as described in section 3(c), Federal regulation of such prod-

ucts has the effect of preempting any State or local law or regulation, criminal or civil, that has the effect of restricting the use of or access to any such product.

(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to limit the preemptory effect of the regulation by the Food and Drug Administration of products that are not reproductive health products.

SEC. 3. NATIONAL UNIFORMITY FOR REPRODUCTIVE HEALTH PRODUCTS.

(a) IN GENERAL.—No State or unit of local government, or State or local government official or other person acting under color of law may implement or enforce any law, requirement, prohibition, or limitation that restricts use or access, or has the effect of restricting use or access, by any individual to any reproductive health product.

(b) ENFORCEMENT.—

(1) ATTORNEY GENERAL.—The Attorney General may commence a civil action in an appropriate district court of the United States on behalf of the United States against any State or unit of local government, State or local government official, or against any other person acting under color of law that implements or enforces a limitation or requirement that violates subsection (a). The court shall

hold unlawful the limitation or requirement if it is in violation of subsection (a).

(2) PRIVATE RIGHT OF ACTION.—

(A) IN GENERAL.—Any individual or entity, including any health care provider or patient, adversely affected by an alleged violation of subsection (a), may commence a civil action in an appropriate district court of the United States against any State or unit of local government, or State or local government official, or against any other person acting under color of law who violates subsection (a). The court shall hold unlawful the limitation or requirement if it is in violation of subsection (a).

(B) HEALTH CARE PROVIDER.—A health care provider may commence an action pursuant to subparagraph (A) in an appropriate district court of the United States for relief on its own behalf, on behalf of the provider's staff, or on behalf of the provider's patients who are or may be adversely affected by an alleged violation of subsection (a).

(3) DECLARATORY AND EQUITABLE RELIEF.—In any action under this subsection, the court may award appropriate declaratory or equitable relief, in-

cluding temporary, preliminary, or permanent injunctive relief.

(4) COSTS.—In any action under this subsection, the court shall award costs of litigation, as well as reasonable attorney's fees, to any prevailing plaintiff. A plaintiff shall not be liable to a defendant for costs or attorney's fees in any non-frivolous action under this subsection.

(5) JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction over proceedings under this Act and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided for by law.

(c) DEFINITION.—In this section, the term ''reproductive health product'' means any drug or device that—

(1) is approved under section 505 or section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355; 360e), licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), cleared under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)), or authorized under section 513(f)(2) of such Act (21 U.S.C. 360c(f)(2)); and

(2) is used to—

(A) diagnose, prevent, manage, treat, or terminate pregnancy; or

(B) prevent or manage conditions of the reproductive system.

(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out subsection (b)(1), there is authorized to be appropriated to the Attorney General $20,000,000 for fiscal year 2022, to remain available until expended.