



July 24, 2015

TO: Members, Committee on Energy and Commerce
FROM: Committee Majority Staff
RE: Committee on Energy and Commerce Markup

I. INTRODUCTION

The Committee on Energy and Commerce will meet in open markup session on July 28 and July 29, 2015, in 2123 Rayburn House Office Building.

On Tuesday, July 28, at 5:00 p.m., the Committee will convene for opening statements only. The Committee will reconvene on Wednesday, July 29, at 10:00 a.m., to consider the following:

- H.R. 1344, Early Hearing Detection and Intervention Act of 2015;
- H.R. 1462, Protecting Our Infants Act of 2015;
- H.R. 1725, National All Schedules Prescription Electronic Reporting Reauthorization Act of 2015;
- H.R. 2820, Stem Cell Therapeutic and Research Reauthorization Act of 2015;
- H.R. 985, Concrete Masonry Products, Research, Education, and Promotion Act of 2015; and,
- H.R. 3154, E-Warranty Act of 2015.

In keeping with Chairman Upton's announced policy, Members must submit any amendments they may have two hours before they are offered during this markup. Members may submit amendments by email to peter.kielty@mail.house.gov. Any information with respect to an amendment's parliamentary standing (e.g., its germaneness) should be submitted at this time as well.

II. EXPLANATION OF LEGISLATION

A. H.R. 1344, Early Hearing Detection and Intervention Act

H.R. 1344, introduced by Rep. Guthrie and Rep. Capps, would amend the Public Health Service Act to reauthorize a program for early detection, diagnosis, and treatment for deaf and hard-of-hearing newborns, infants, and young children. At the Subcommittee markup, an

amendment was adopted that changed the years the program would be reauthorized from 2017 through 2022 to 2016 through 2020.

B. H.R. 1462, Protecting Our Infants Act

H.R. 1462, introduced by Rep. Clark and Rep. Stivers, would help combat the rise of prenatal opioid abuse and neonatal abstinence syndrome (NAS). In recent years, there has been a steady rise in the number of overdose deaths involving heroin. According to the Centers for Disease Control and Prevention, the death rate for heroin overdose doubled from 2010 to 2012. At the same time, there has been an increase in cases of NAS, which refers to medical issues associated with drug withdrawal in newborns due to exposure to opioids or other drugs in utero.

C. H.R. 1725, National All Schedules Prescription Electronic Reporting Reauthorization Act (NASPER)

H.R. 1725, introduced by Rep. Whitfield, Ranking Member Pallone, Rep. Bucshon, and Rep. Kennedy, would establish a grant program for States to administer prescription drug monitoring programs to ensure that the appropriate law enforcement, regulatory, and State professional licensing authorities have access to prescription drug history information to investigate drug diversion and abuse.

D. H.R. 2820, Stem Cell Therapeutic and Research Reauthorization Act

H.R. 2820, introduced by Rep. Smith and Rep. Matsui, would reauthorize the Stem Cell Therapeutic and Research Act. Stem cells from both cord blood and bone marrow are used to treat nearly eighty life-threatening diseases – from cancers to blood diseases to immune disorders. The Stem Cell Therapeutic and Research Act provides Federal support for cord blood donation, a national bone marrow registry, and research essential to increasing patient access to transplants.

E. H.R. 985, Concrete Masonry Products, Research, Education, and Promotion Act of 2015

H.R. 985, introduced by Representative Guthrie and Representative Castor, would establish a check-off program for concrete masonry products. It also would direct the Department of Commerce to provide administrative support and exercise certain oversight controls throughout the implementation of the program.

Section 1. Short Title. Section 1 provides that the Act may be cited as the “Concrete Masonry Products Research, Education, and Promotion Act of 2015.”

Section 2. Declaration of Policy. Section 2 sets forth the purpose of the Act to establish a program that strengthens the market position and promotes the use of concrete masonry products.

Section 3. Definitions. Section 3 sets forth definitions for terms contained within the Act.

Section 4. Issuance of Orders. Section 4 authorizes the Secretary of the Department of Commerce to issue orders under this Act that are applicable to manufacturers of concrete masonry products. It also sets forth procedures the Secretary must follow in issuing a proposed order, amending a current order, and making orders available for public comment and review.

Section 5. Required Terms in Orders. Section 5 sets forth the specified terms and conditions that an order must contain. This section authorizes the establishment of a Concrete Masonry Products Board, the criteria for board membership, and the powers and duties of the board in carrying out the promotion, research, and education programs related to concrete masonry products.

Section 6. Assessments. Section 6 requires and authorizes the collection of mandatory assessments paid by manufacturers of concrete masonry products manufactured and marketed in the United States. It also sets forth the collection processes of the assessment and details how the assessments must be disbursed to support research, education, and promotion programs and projects.

Section 7. Referenda. Section 7 requires the Secretary to conduct a referendum among manufacturers required to pay the assessments to formally adopt an order under this Act. The Secretary will deem the order in effect only if it has been approved by a majority of manufacturers voting who also represent a majority of the machine cavities in operation of those manufacturers voting in the referendum. This section also sets forth the terms of eligibility among manufacturers to participate and cast votes on the referendum.

Section 8. Petition and Review. Section 8 authorizes concrete masonry product manufacturers covered by an order to file a petition challenging the legality of the order. It also authorizes manufacturers to file a petition requesting a modification to the order or an exemption from the order.

Section 9. Enforcement. Section 9 gives U.S. District courts authority to enforce this Act. It also authorizes the U.S. Attorney General to impose civil actions. It establishes civil penalties and orders for violations of the Act of not more than \$5,000 for each violation. It also provides that any remedies for enforcement listed in this Act are in addition to, and not exclusive of, other remedies that may be available.

Section 10. Investigation and Power to Subpoena. Section 10 authorizes the Secretary to conduct investigations, issue subpoenas, and take other actions to determine whether any are engaging in conduct that violates the Act.

Section 11. Suspension or Termination. Section 11 gives the Secretary authority to suspend or terminate an order or provision of an order that obstructs or does not effectuate the purpose of the Act. It also gives the Secretary authority to suspend or terminate the collection of assessments under an order and all other activities if it is determined that the order is not approved as a result of a referendum conducted under Section 7.

Section 12. Amendments to Orders. Section 13 establishes that all the provisions of the Act that are applicable to the order will be applicable to any amendment to the order, except Section 8 will not apply to an amendment.

Section 13. Effect on Other Laws. Section 13 establishes that this Act will not affect or preempt any other Federal or State laws authorizing research, education, and promotion relating to concrete masonry products.

Section 14. Regulations. Section 14 authorizes the Secretary to issue regulations that may be necessary under the power vested in the Secretary under this Act to carry out the Act.

Section 15. Limitation on Expenditures for Administrative Expenses. Section 15 prohibits the use of any funds appropriated to carry out the Act to be used for the payment of expenses or expenditures of the Board in administering the order.

Section 16. Study and Report by the Government Accountability Office. Section 16 requires the Government Accountability Office to conduct two studies examining several factors related to the efficacy of the program. The first study must be submitted to Congress no later than five years after the Act's enactment, and the second study must be submitted no later than eight years after the Act's enactment.

Section 17. Study and Report by the Department of Commerce. Section 17 requires the Department of Commerce to prepare a study and submit to Congress a report examining the appropriateness and effectiveness of applying the Department of Agriculture's check-off program model to other non-agricultural industries. The study must be submitted to Congress no later than three years after the Act's enactment.

F. H.R. 3154, E-Warranty Act of 2015

H.R. 3154, sponsored by Congressman Mullin, would modernize current warranty requirements by allowing manufacturers the option of posting product warranties online.

Section 1. Short Title. Section 1 provides that the Act may be cited as the "E-Warranty Act of 2015."

Section 2. Findings. This section includes Congressional findings that (1) manufacturers and consumers prefer to have the option to provide or receive warranty information online; (2) modernizing warrant notification rules is necessary to allow the United States to compete globally in manufacturing, trade, and the development of consumer products connected to the Internet; and (3) expanding consumer access to relevant consumer information in an environmentally friendly way and providing manufacturers flexibility to meet labeling and warranty requirements would be achieved by allowing an electronic warrant option.

Section 3. Electronic display of terms of written warranty for consumer products. This section would amend existing warranty disclosure provisions of the Magnuson-Moss Warranty Act to allow a seller to make written warranty terms available in an accessible digital format on

the Internet website of the manufacturer of the consumer product and providing the consumer, or prospective consumer, with information about how to obtain and review the warranty terms by indicating on the product, the product packaging, or in the product manual the Internet website of the manufacturer where the warrant terms can be obtained and viewed and the phone number, postal mailing address, or other reasonable non-Internet based means of contacting the manufacturer to obtain and review the warranty terms.

This section requires that in the case where the terms of any written warranty must be disclosed to the consumer prior to the sale of the product at a retail location, by catalog, or through door-to-door sales, the option to provide the terms in an accessible digital format shall only apply if the seller makes the terms of the warranty available, through electronic or other means, at the location of the sale to the consumer.

This section requires the Federal Trade Commission to revise the relevant rules to comply with the Act within one year of enactment. The Commission may waive the requirement of section 109(a) of the Magnuson-Mass Warranty-Federal Trade Commission Improvement Act (15 U.S.C. 2302(b)) to give interested persons an opportunity for oral presentation if the Commission determines that giving interested persons such opportunity would interfere with the ability of the Commission to revise the rules in a timely manner.

III. STAFF CONTACTS

If you have questions regarding H.R. 1344, H.R. 1462, H.R. 1725, and H.R. 2820, please contact Clay Alspach, Katie Novaria, or Adrianna Simonelli. If you have questions regarding H.R. 985, please contact Paul Nagle or Graham Dufault. If you have questions regarding H.R. 3154, please contact Paul Nagle or Olivia Trusty. All Committee staff can be reached at (202) 225-2927.