AFFORDABLE PRESCRIPTIONS FOR PATIENTS ACT OF 2023

Mr. CORNYN. Madam President, I am glad the Presiding Officer is in the Chair because, committed as I know she is to solving real problems, the legislation that we are going to pass here momentarily by unanimous consent has been 7 years in the making but will actually address the problem of high drug prices.

In the last few years, I have heard, certainly, from my constituents in Texas about the struggle to obtain their medication at affordable costs. It is not because no treatment exists or because they don't have insurance or because it is a brandnew drug that just hit the market. Many patients can't afford prescriptions they have been taking for years because the prices continue to go up, and there is little evidence of anything to justify those price increases.

I have heard heartbreaking stories about patients leaving their prescriptions unfilled simply because they can't afford them, rationing doses of blood pressure medication, and traveling across the international border to Mexico to get certain medications at lower prices. The problem is, when you go to Mexico to get your medication, it may look like the same medication you take in the United States, but chances are it may well be counterfeit, so that is a real problem in and of itself.

These challenges have been compounded by high inflation under President Biden's policies. We know everything has gone up in cost—an average of 20 percent over the last 3 years for groceries, gas, rent. Just about everything is more expensive today than it was when President Biden took office.

Senators from both sides of the aisle, on a bipartisan basis, have offered a number of bills to try to get at this problem of high drug prices. One of these is a bipartisan bill that I introduced with Senator RICHARD BLUMENTHAL from Connecticut called the Affordable Prescriptions for Patients Act. This legislation addresses one of the most egregious practices contributing to high drug prices, which is patent abuse.

Our country offers robust protection for intellectual property. In other words, if you are going to do the research and development and go to the expense and take the risk associated with creating something new and innovative, like a new drug to treat a deadly disease, our laws allow the right to sell that drug on an exclusive basis for a period of time. I think it is very important to incentivize that sort of innovation and research, and it produces lifesaving drugs. We know that many companies are unlikely to pour expensive resources into discovering new cures if, at the end of it, they can't even recoup their own costs, much less make a profit.

That is where our patent system comes in. It is as old as our country is old. The patent system provides a limited time period for the manufacturer to be the sole seller in the marketplace before generic versions can become available, but some companies are abusing the system. They are taking extreme steps to maintain their exclusivity for a drug and keep the money rolling in. One way they do this is through a practice known as patent thickening. This involves creating intricate webs of patents to keep the competition at bay for as long as possible because as long as you can continue to sell these drugs on an exclusive basis, the money is going to keep coming in, and it will not go generic and result in competition from others.

The Affordable Prescriptions for Patients Act aims to stop this anticompetitive behavior and allow new drugs to come to market sooner. That is how we improve competition and ultimately lower prices for patients without standing in the way of innovation.

The added benefit to this bill is the Federal savings that it would provide for taxpayers. The Congressional Budget Office has estimated that this bill would lead to lower Federal spending by $1.8 billion over 10 years.

At a time when our national debt is at an alltime high—approaching $35 trillion—anything we can do to help deal with that rising debt I think should be regarded as positive. And this is just a savings to the Federal Government for Medicare and Medicaid. There will, undoubtedly, be significant savings for consumers who have private health insurance on top of that.

This bipartisan legislation checks every box. It protects innovation; it increases competition; and it saves money for taxpayers and consumers. Most importantly, it lowers prices at a time when many patients are seeing their drug prices go up and up and up—apparently, without end.

I can't imagine why anybody would oppose such a piece of legislation. Election day is 4 months away, and the Senate is only scheduled to be in session for 20 days between now and then, including today. Patients in Texas and across the country are asking their elected representatives to do something to address these high drug prices, and it is time for the Senate to deliver.

Madam President, as in legislative session, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 22, S. 150.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (S. 150) to amend the Federal Trade Commission Act to prohibit product hopping, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary.

Mr. CORNYN. Madam President, I further ask that the Cornyn substitute amendment at the desk be considered and agreed to; that the bill, as amended, be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2399) in the nature of a substitute was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Affordable Prescriptions for Patients Act of 2023''.

SEC. 2. TITLE 35 AMENDMENTS.

(a) IN GENERAL.—Section 271(e) of title 35, United States Code, is amended—

(1) in paragraph (2)(C), in the flush text following clause (ii), by adding at the end the following: ''With respect to a submission described in clause (ii), the act of infringement shall extend to any patent that claims the biological product, a method of using the biological product, or a method or product used to manufacture the biological product.''; and

(2) by adding at the end the following:

''(7)(A) Subject to subparagraphs (C), (D), and (E), if the sponsor of an approved application for a reference product, as defined in section 351(i) of the Public Health Service Act (42 U.S.C. 262(i)) (referred to in this paragraph as the 'reference product sponsor'), brings an action for infringement under this section against an applicant for approval of a biological product under section 351(k) of such Act that references that reference product (referred to in this paragraph as the 'subsection (k) applicant'), the reference product sponsor may assert in the action a total of not more than 20 patents of the type described in subparagraph (B), not more than 10 of which shall have issued after the date specified in section 351(l)(7)(A) of such Act.

''(B) The patents described in this subparagraph are patents that satisfy each of the following requirements:

''(i) Patents that claim the biological product that is the subject of an application under section 351(k) of the Public Health Service Act (42 U.S.C. 262(k)) (or a use of that product) or a method or product used in the manufacture of such biological product.

''(ii) Patents that are included on the list of patents described in paragraph (3)(A) of section 351(l) of the Public Health Service Act (42 U.S.C. 262(l)), including as provided under paragraph (7) of such section 351(l).

''(iii) Patents that—

''(I) have an actual filing date of more than 4 years after the date on which the reference product is approved; or

''(II) include a claim to a method in a manufacturing process that is not used by the reference product sponsor.

''(C) The court in which an action described in subparagraph (A) is brought may increase the number of patents limited under that subparagraph—

''(i) if the request to increase that number is made without undue delay; and

''(ii)(I) if the interest of justice so requires; or

''(II) for good cause shown, which—

''(aa) shall be established if the subsection (k) applicant fails to provide information required section 351(k)(2)(A) of the Public Health Service Act (42 U.S.C. 262(k)(2)(A)) that would enable the reference product sponsor to form a reasonable belief with respect to whether a claim of infringement under this section could reasonably be asserted; and

''(bb) may be established—

''(AA) if there is a material change to the biological product (or process with respect to the biological product) of the subsection (k) applicant that is the subject of the application;

''(BB) if, with respect to a patent on the supplemental list described in section 351(l)(7)(A) of Public Health Service Act (42 U.S.C. 262(l)(7)(A)), the patent would have issued before the date specified in such section 351(l)(7)(A) but for the failure of the Office to issue the patent or a delay in the issuance of the patent, as described in paragraph (1) of section 154(b) and subject to the limitations under paragraph (2) of such section 154(b); or

''(CC) for another reason that shows good cause, as determined appropriate by the court.

''(D) In determining whether good cause has been shown for the purposes of subparagraph (C)(ii)(II), a court may consider whether the reference product sponsor has provided a reasonable description of the identity and relevance of any information beyond the subsection (k) application that the court believes is necessary to enable the court to form a belief with respect to whether a claim of infringement under this section could reasonably be asserted.

''(E) The limitation imposed under subparagraph (A)—

''(i) shall apply only if the subsection (k) applicant completes all actions required under paragraphs (2)(A), (3)(B)(ii), (5), (6)(C)(i), (7), and (8)(A) of section 351(l) of the Public Health Service Act (42 U.S.C. 262(l)); and

''(ii) shall not apply with respect to any patent that claims, with respect to a biological product, a method for using that product in therapy, diagnosis, or prophylaxis, such as an indication or method of treatment or other condition of use.''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to an application submitted under section 351(k) of the Public Health Service Act (42 U.S.C. 262(k)) on or after the date of enactment of this Act.

(c) MEDICARE IMPROVEMENT FUND.—Section 1898(b)(1) of the Social Security Act (42 U.S.C. 1395iii(b)(1)) is amended by striking ''$0'' and inserting ''$1,800,000,000''.

The bill (S. 150), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. CORNYN. Madam President, I yield the floor.

EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER. The Senator from Kansas.

Mr. MORAN. Madam President, I ask unanimous consent that the vote scheduled for 1:45 p.m. commence immediately.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON MERIWEATHER NOMINATION

The question is, Will the Senate advise and consent to the Meriweather nomination?

Mr. MORAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. MARKEY) and the Senator from New Jersey (Mr. MENENDEZ) are necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Tennessee (Mrs. BLACKBURN), the Senator from West Virginia (Mrs. CAPITO), the Senator from Montana (Mr. DAINES), the Senator from Kansas (Mr. MARSHALL), the Senator from Utah (Mr. ROMNEY), the Senator from Florida (Mr. SCOTT), and the Senator from Alabama (Mr. TUBERVILLE).

Further, if present and voting: the Senator from Florida (Mr. SCOTT) would have voted ''nay'' and the Senator from Kansas (Mr. MARSHALL) would have voted ''nay.''

The result was announced—yeas 52, nays 39, as follows:

[Rollcall Vote No. 213 Ex.]

YEAS—52

Baldwin	Hassan	Rosen
Bennet	Heinrich	Sanders
Blumenthal	Hickenlooper	Schatz
Booker	Hirono	Schumer
Brown	Kaine	Shaheen
Butler	Kelly	Sinema
Cantwell	King	Smith
Cardin	Klobuchar	Stabenow
Carper	Luján	Tester
Casey	Manchin	Van Hollen
Collins	Merkley	Warner
Coons	Murkowski	Warnock
Cortez Masto	Murphy	Warren
Duckworth	Murray	Welch
Durbin	Ossoff	Whitehouse
Fetterman	Padilla	Wyden
Gillibrand	Peters	
Graham	Reed	

NAYS—39

Barrasso	Grassley	Paul
Boozman	Hagerty	Ricketts
Braun	Hawley	Risch
Britt	Hoeven	Rounds
Budd	Hyde-Smith	Rubio
Cassidy	Johnson	Schmitt
Cornyn	Kennedy	Scott (SC)
Cotton	Lankford	Sullivan
Cramer	Lee	Thune
Crapo	Lummis	Tillis
Cruz	McConnell	Vance
Ernst	Moran	Wicker
Fischer	Mullin	Young

NOT VOTING—9

Blackburn	Markey	Romney
Capito	Marshall	Scott (FL)
Daines	Menendez	Tuberville

The nomination was confirmed.

The PRESIDING OFFICER. The Senator from Utah.

UNANIMOUS CONSENT REQUEST—H.R. 8281

Mr. LEE. Madam President, one citizen, one vote—today, this foundational principle is under attack. It is under attack because President Biden refuses to enforce the law. Now we face a direct threat to our entire electoral system.

Consider this: Since President Biden's inauguration on January 20, 2021, over 10 million illegal immigrants have entered the United States. This figure exceeds the populations of 36 States, creating a crisis that has been met with troubling silence and inaction from far too many on the other side of the aisle.

With millions of unauthorized people now on U.S. soil, living here in the United States, the potential for election fraud through ineligible voting is not just a hypothetical risk—no; it is a looming reality.

With the influx of noncitizens under this administration, even if just a fraction—let's just say something like 1 in 100—were to vote, this could translate to hundreds of thousands of votes, enough to sway our tightly contested elections and potentially alter their outcomes.

This is deeply concerning considering that a recent study showed that noncitizens have ample openings to vote illegally. It found that anywhere from 10 to 27 percent of noncitizens are registered to vote and 5 to 13 percent of noncitizens do actually vote in Presidential elections, no less.

Across the Nation, instances abound where States have inadvertently facilitated this very crisis. From unsolicited voter registration forms being mailed out to noncitizens to driver's licenses issued without adequate checks, practices relying merely on the honesty of illegal aliens have opened up the floodgates to voter fraud.

While it is true that it is already illegal for noncitizens to vote in Federal elections, there are no effective systems in place to verify the citizenship of voters. A mere check on a box is all it takes, with little risk of being caught. In short, you are on the honor system with those forms.

Federal law even prohibits States from requiring proof of citizenship when registering voters via Federal forms. So it is not just that the States aren't doing an adequate job of verifying citizenship as a condition precedent to registering to vote in a Federal election; they are prohibited by law from doing so.

An increasing number of localities permit noncitizens to votes in local elections, and this makes it even worse. It further blurs the distinctions that are there that have historically been meant to protect the integrity of our elections.

Prominent Democrats have openly discussed these tactics, in many instances as beneficial to their agenda, as likely to help their political ambitions. Only months ago, every Senate Democrat voted to count illegal aliens in the census to help them shore up more seats in Congress and consequently more votes in the electoral college.

This cannot continue. It is our responsibility, our imperative, to close these gates. My bill, the SAVE Act, would ensure that this stops. It would be a vital step in securing the electoral process, ensuring that every vote cast is legitimate and every voter is duly recognized and registered and properly brought into the system so that they can vote.

The SAVE Act amends the National Voter Registration Act—the same act that was interpreted a few years ago by the Supreme Court as prohibiting the States from requesting any positive proof of citizenship—so that States can