

116TH CONGRESS
1ST SESSION

H. R. 1882

To increase the availability and affordability of menstrual hygiene products
for individuals with limited access, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2019

Ms. MENG (for herself, Mrs. BEATTY, Mr. BLUMENAUER, Mr. CÁRDENAS, Ms. JUDY CHU of California, Mr. CICILLINE, Ms. CLARKE of New York, Mr. COHEN, Mr. CONNOLLY, Ms. DELAURO, Ms. GARCIA of Texas, Mr. GRIJALVA, Ms. HAALAND, Mr. HASTINGS, Mrs. HAYES, Ms. JAYAPAL, Mr. JOHNSON of Georgia, Ms. KELLY of Illinois, Mr. KHANNA, Ms. LEE of California, Mr. TED LIEU of California, Ms. LOFGREN, Mrs. CAROLYN B. MALONEY of New York, Mr. SEAN PATRICK MALONEY of New York, Ms. MCCOLLUM, Ms. MOORE, Mr. MORELLE, Mr. NADLER, Ms. NORTON, Ms. OCASIO-CORTEZ, Ms. OMAR, Mr. PAYNE, Ms. PRESSLEY, Mr. RASKIN, Mr. ROUDA, Ms. ROYBAL-ALLARD, Ms. SCHAKOWSKY, Ms. TITUS, Ms. TLAIB, Mr. TONKO, Ms. VELÁZQUEZ, Ms. WASSERMAN SCHULTZ, and Ms. WEXTON) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on the Judiciary, Financial Services, Ways and Means, Energy and Commerce, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To increase the availability and affordability of menstrual
hygiene products for individuals with limited access, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Menstrual Equity For
3 All Act of 2019”.

4 **SEC. 2. MENSTRUAL HYGIENE PRODUCTS FOR STUDENTS.**

5 (a) IN GENERAL.—Section 4108(5)(C) of the Ele-
6 mentary and Secondary Education Act of 1965 (20 U.S.C.
7 7118(5)(C)) is amended—

8 (1) in clause (vi), by striking “or” after the
9 semicolon;

10 (2) in clause (vii), by inserting “or” after the
11 semicolon; and

12 (3) by adding at the end the following:

13 “(viii) provide free menstrual hygiene
14 products to students who use menstrual
15 hygiene products;”.

16 (b) DEFINITIONS.—Section 4102 of the Elementary
17 and Secondary Education Act of 1965 (20 U.S.C. 7112)
18 is amended—

19 (1) by redesignating paragraphs (6) through
20 (8) as paragraphs (7) through (9), respectively; and

21 (2) by inserting after paragraph (5) the fol-
22 lowing:

23 “(6) MENSTRUAL HYGIENE PRODUCTS.—

24 “(A) IN GENERAL.—The term ‘menstrual
25 hygiene products’ means sanitary napkins and

1 tampons. All items must conform to applicable
2 industry standards.

3 “(B) RULEMAKING.—By not later than 1
4 year after the date of enactment of the Men-
5 strual Equity For All Act of 2019, the Sec-
6 retary, in consultation with the Secretary of
7 Health and Human Services, shall promulgate
8 rules with respect to this paragraph.”.

9 **SEC. 3. MENSTRUAL HYGIENE PRODUCTS FOR INCARCER-**
10 **ATED INDIVIDUALS AND DETAINEES.**

11 (a) REQUIREMENT FOR STATES.—Beginning on the
12 date that is 180 days after the date of the enactment of
13 this Act, and annually thereafter, the chief executive offi-
14 cer of each State that receives a grant under subpart 1
15 of part E of title I of the Omnibus Crime Control and
16 Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.) (com-
17 monly referred to as the “Edward Byrne Memorial Justice
18 Assistance Grant Program”) shall submit to the Attorney
19 General a certification, in such form and containing such
20 information as the Attorney General may require, that all
21 incarcerated individuals and detainees in that State have
22 access to menstrual hygiene products on demand and at
23 no cost to the incarcerated individuals and detainees, and
24 that no visitor is prohibited from visiting an incarcerated

1 individual due to the visitor’s use of menstrual hygiene
2 products.

3 (b) REDUCTION IN GRANT FUNDING.—In the case
4 of a State whose chief executive officer fails to submit a
5 certification required under subsection (a) in a fiscal year,
6 the Attorney General shall reduce the amount that the
7 State would have otherwise received under section 505 of
8 title I of the Omnibus Crime Control and Safe Streets Act
9 of 1968 (42 U.S.C. 3755) by 20 percent for the following
10 fiscal year.

11 (c) REALLOCATION.—Amounts not allocated to a
12 State under section 505 of title I of the Omnibus Crime
13 Control and Safe Streets Act of 1968 (42 U.S.C. 3755)
14 for a fiscal year pursuant to subsection (b) shall be reallo-
15 cated under such section to States that submit such cer-
16 tifications.

17 (d) MENSTRUAL HYGIENE PRODUCTS.—For the pur-
18 poses of subsection (a), the term “menstrual hygiene prod-
19 ucts” means sanitary napkins and tampons. All items
20 must conform to applicable industry standards.

21 (e) AVAILABILITY FOR FEDERAL PRISONERS.—The
22 Attorney General shall make rules requiring, and the Di-
23 rector of the Bureau of Prisons shall take such actions
24 as may be necessary to ensure, the distribution and acces-
25 sibility without charge of menstrual hygiene products to

1 prisoners in the custody of the Bureau of Prisons, includ-
2 ing any prisoner in a Federal penal or correctional institu-
3 tion, any Federal prisoner in a State penal or correctional
4 institution, and any Federal prisoner in a facility adminis-
5 tered by a private detention entity, to ensure that each
6 prisoner who requires these products may receive them in
7 sufficient quantity.

8 (f) AVAILABILITY FOR DETAINEES.—The Secretary
9 of Homeland Security shall take such actions as may be
10 necessary to ensure that menstrual hygiene products are
11 distributed and made accessible to each alien detained by
12 the Secretary of Homeland Security, including any alien
13 in a facility administered by a private detention entity, at
14 no expense to the alien.

15 **SEC. 4. MENSTRUAL HYGIENE PRODUCTS AVAILABILITY**
16 **FOR HOMELESS INDIVIDUALS UNDER EMER-**
17 **GENCY FOOD AND SHELTER GRANT PRO-**
18 **GRAM.**

19 Subsection (a) of section 316 of the McKinney-Vento
20 Homeless Assistance Act (42 U.S.C. 11346(a)) is amend-
21 ed—

22 (1) in paragraph (5), by striking “and” at the
23 end;

24 (2) in paragraph (6), by striking the period at
25 the end and inserting “; and”; and

1 (3) by adding at the end the following new
2 paragraph:

3 “(7) guidelines that ensure that amounts pro-
4 vided under the program to private nonprofit organi-
5 zations and local governments may be used to pro-
6 vide sanitary napkins and tampons. All items must
7 conform to applicable industry standards.”.

8 **SEC. 5. MENSTRUAL HYGIENE PRODUCTS REIMBURSE-**
9 **MENT FROM HEALTH FLEXIBLE SPENDING**
10 **ARRANGEMENTS.**

11 (a) IN GENERAL.—Section 106 of the Internal Rev-
12 enue Code of 1986 is amended by adding at the end the
13 following:

14 “(h) MENSTRUAL HYGIENE PRODUCTS.—

15 “(1) IN GENERAL.—Amounts paid or incurred
16 for menstrual hygiene products shall be treated as a
17 qualified medical expense eligible for reimbursement
18 from a health flexible spending arrangement.

19 “(2) MENSTRUAL HYGIENE PRODUCTS DE-
20 FINED.—For purposes of paragraph (1), the term
21 ‘menstrual hygiene products’ means sanitary nap-
22 kins, tampons, liners, cups, and similar items used
23 by individuals with respect to menstruation. All
24 items must conform to applicable industry stand-
25 ards.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to taxable years beginning after
 3 the date of the enactment of this Act.

4 **SEC. 6. MENSTRUAL HYGIENE PRODUCTS COVERED BY**
 5 **MEDICAID.**

6 (a) IN GENERAL.—Title XIX of the Social Security
 7 Act (42 U.S.C. 1396 et seq.) is amended—

8 (1) in section 1902(a)(10)(A), by striking “and
 9 (29)” and inserting “, (29), and (30)”; and

10 (2) in section 1905—

11 (A) in subsection (a)—

12 (i) in paragraph (29), by striking
 13 “and” at the end;

14 (ii) by redesignating paragraph (30)
 15 as paragraph (31); and

16 (iii) by inserting after paragraph (29)
 17 the following new paragraph:

18 “(30) menstrual hygiene products (as defined in
 19 subsection (ff)); and”; and

20 (B) by adding at the end the following new
 21 subsection:

22 “(ff) MENSTRUAL HYGIENE PRODUCTS.—For pur-
 23 poses of subsection (a)(30), The term ‘menstrual hygiene
 24 products’ means sanitary napkins, tampons, liners, cups,

1 and similar items used by individuals with respect to men-
2 struation and that conform to industry standards.”.

3 (b) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Subject to paragraph (2),
5 the amendments made by this section shall apply
6 with respect to medical assistance furnished during
7 or after the first calendar quarter beginning on or
8 after the date that is 1 year after the date of the
9 enactment of this Act.

10 (2) EXCEPTION FOR STATE LEGISLATION.—In
11 the case of a State plan under title XIX of the So-
12 cial Security Act (42 U.S.C. 1396 et seq.) that the
13 Secretary of Health and Human Services determines
14 requires State legislation in order for the respective
15 plan to meet any requirement imposed by amend-
16 ments made by this section, the respective plan shall
17 not be regarded as failing to comply with the re-
18 quirements of such title solely on the basis of its
19 failure to meet such an additional requirement be-
20 fore the first day of the first calendar quarter begin-
21 ning after the close of the first regular session of the
22 State legislature that begins after the date of the en-
23 actment of this Act. For purposes of the previous
24 sentence, in the case of a State that has a 2-year
25 legislative session, each year of the session shall be

1 considered to be a separate regular session of the
2 State legislature.

3 **SEC. 7. MENSTRUAL HYGIENE PRODUCTS FOR EMPLOYEES.**

4 Section 6 of the Occupational Safety and Health Act
5 of 1970 (29 U.S.C. 655) is amended by adding at the end
6 the following:

7 “(g) The Secretary shall by rule promulgate a re-
8 quirement that each employer with not less than 100 em-
9 ployees provide menstrual hygiene products free of charge
10 for employees of the employer. For purposes of the pre-
11 ceding sentence, ‘menstrual hygiene products’ means sani-
12 tary napkins and tampons. All items must conform to ap-
13 plicable industry standards.”.

14 **SEC. 8. MENSTRUAL HYGIENE PRODUCTS IN FEDERAL**
15 **BUILDINGS.**

16 (a) REQUIREMENT.—The head of each agency shall
17 ensure that menstrual hygiene products are stocked in,
18 and available free of charge in, each covered restroom in
19 each covered public building under the jurisdiction of such
20 agency.

21 (b) DEFINITIONS.—In this section, the following defi-
22 nitions apply:

23 (1) AGENCY.—The term “agency” has the
24 meaning given such term in section 551 of title 5,
25 United States Code.

1 (2) COVERED PUBLIC BUILDING.—The term
2 “covered public building” means a public building
3 (as defined in section 3301 of title 40, United States
4 Code) that is open to the public and contains a rest-
5 room, and includes a building listed in section 6301
6 or 5101 of such title.

7 (3) COVERED RESTROOM.—The term “covered
8 restroom” means each restroom in a covered public
9 building except for a restroom designated solely for
10 use by men.

11 (4) MENSTRUAL HYGIENE PRODUCTS.—The
12 term “menstrual hygiene products” means sanitary
13 napkins and tampons. All items must conform to ap-
14 plicable industry standards.

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