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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To repeal sections 319F–3 and 319F–4 of the Public Health Service Act,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MASSIE introduced the following bill; which was referred to the Committee
on _____

A BILL

To repeal sections 319F–3 and 319F–4 of the Public Health
Service Act, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “PREP Repeal Act”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) Liability shields granted under section
8 319F–3 of the Public Health Service Act (42 U.S.C.

1 247d–6d) have undermined public trust and ac-
2 countability during public health emergencies.

3 (2) The ability of citizens to seek redress for in-
4 jury or harm is a fundamental principle of justice
5 and due process.

6 (3) The Public Readiness and Emergency Pre-
7 paredness Act (Public Law 109–148) (commonly re-
8 ferred to as the “PREP Act”) has enabled regu-
9 latory capture and legal immunity for pharma-
10 ceutical manufacturers at the expense of individual
11 rights.

12 **SEC. 3. REPEAL OF LIABILITY IMMUNITY FOR PANDEMIC**
13 **PRODUCTS.**

14 (a) REPEALS.—The following sections are repealed:

15 (1) Section 319F–3 of the Public Health Serv-
16 ice Act (42 U.S.C. 247d–6d).

17 (2) Section 319F–4 of the Public Health Serv-
18 ice Act (42 U.S.C. 247d–6e).

19 (b) RESCISSION.—The unobligated balances of
20 amounts in the Covered Countermeasure Process Fund,
21 as established by section 319F–4(a) of the Public Health
22 Service Act (42 U.S.C. 247d–6e(a)), as in effect on the
23 day before the date of enactment of this Act, are re-
24 scinded.

25 (c) REFERENCES.—

1 (1) IN GENERAL.—Any reference in Federal law
2 to a section described in subsection (a) or a provi-
3 sion thereof shall be construed to be a reference to
4 such section or provision as in effect on the day be-
5 fore the date of enactment of this Act.

6 (2) AMENDMENT.—Section 565(b)(1) of the
7 Federal Food, Drug, and Cosmetic Act (21 U.S.C.
8 360bbb-4(b)(1)) is amended by striking “319F-3,”.

9 **SEC. 4. PRESERVATION OF EXISTING RIGHTS.**

10 Nothing in this Act shall be construed to limit the
11 ability of any person to pursue civil remedies under Fed-
12 eral or State law for injury or harm arising from the devel-
13 opment, administration, or distribution of any—

14 (1) drug or device (as such terms are defined
15 in section 201 of the Federal Food, Drug, and Cos-
16 metic Act (21 U.S.C. 321));

17 (2) biological product (as defined in section
18 351(i) of the Public Health Service Act (42 U.S.C.
19 262(i))); or

20 (3) covered countermeasure (as defined in sec-
21 tion 319F-3(i) of the Public Health Service Act (42
22 U.S.C. 247d-6d(i)), as in effect on the day before
23 the date of enactment of this Act).

1 **SEC. 5. APPLICATION.**

2 This Act, including the repeals under section 3(a),
3 shall only apply with respect to actions, claims, or pro-
4 ceedings that—

5 (1) on the date of enactment of this Act, are
6 pending (including actions, claims, or proceedings
7 for which a right of appeal has not been exhausted);
8 or

9 (2) are commenced on or after such date of en-
10 actment.

11 **SEC. 6. SEVERABILITY.**

12 If any provision of this Act or the application thereof
13 to any person or circumstance is held invalid, the remain-
14 der of the Act and the application of such provision to
15 other persons or circumstances shall not be affected.