House Bill 1332

By: Representatives Clark of the 100th, Sainz of the 180th, Crowe of the 118th, Fleming of the 114th, Chastain of the 7th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 2 of Title 31 of the Official Code of Georgia Annotated, relating to the Department of Community Health, so as to require certain hospitals to give a preference to American manufactured pharmaceuticals; to provide for definitions; to provide for exceptions and waivers; to provide for documentation; to provide for rules and regulations; to provide for construction; to provide for related matters; to provide for an effective date; to provide for a short title; to provide for legislative findings; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Georgia Buy American Medicine Act."

SECTION 2.

The General Assembly finds that:

(1) Responsible stewardship of state taxpayer funds and the promotion of public health security are important priorities for this legislative body;

(2) American-made prescription drugs are generally safer for consumption than foreign-made prescription drugs;

(3) Domestic drug production facilities undergo more frequent inspections by the federal Food and Drug Administration than do international facilities, providing higher certainty regarding manufacturing standards;

(4) Domestic drug production facilities are much more likely to be inspected without receiving advance notice than are international facilities, further ensuring the safety of American-made prescription drugs;

(5) The federal Food and Drug Administration has found higher rates of drug quality deficiencies in foreign-made than in American-made prescription drugs;

(6) When hospitals give American-made prescription drugs preference over similar drugs from other countries, doing so encourages the standardization of uniform drug concentrations, thereby further protecting consumers;

(7) Domestic sourcing of prescription drugs reduces reliance on foreign countries for essential medicines that may experience shortages; and

(8) Many hospitals in this state receive taxpayer funds yet do not give American-made prescription drugs any preference over foreign-made drugs.

SECTION 3.

Chapter 2 of Title 31 of the Official Code of Georgia Annotated, relating to the Department of Community Health, is amended by adding a new Code section to read as follows:

"31-2-20.

(a) As used in this Code section, the term:

(1) 'American manufactured pharmaceutical' means a prescription drug or medication that is manufactured, processed, and finished at a facility located within the United States and registered with the federal Food and Drug Administration.

(2) 'Finished' means a drug product in the form in which it will be administered to a patient, such as a tablet, capsule, solution, or topical application.

(3) 'Healthcare provider' means any hospital, health system, clinic, or medical facility licensed to operate in the State of Georgia that receives state funds.

(4) 'Reasonably available' means available in sufficient quantity, quality, and timeliness to meet patient care needs without causing unreasonable delay or disruption.

(5) 'State funds' means any funds appropriated or distributed by the State of Georgia or any of its agencies, departments, authorities, or political subdivisions, excluding federal funds.

(6) 'Substantially higher' means greater than 20 percent.

(b) Any healthcare provider receiving state funds shall give preference to American manufactured pharmaceuticals when procuring prescription drugs for use in patient care, provided such pharmaceuticals are reasonably available.

(c) The preference referenced in subsection (b) of this Code section shall apply only to the expenditure of state funds and shall not apply to federal funds or any funds subject to federal procurement requirements.

(d) A healthcare provider may procure pharmaceuticals not manufactured in the United States if:

(1) An American manufactured pharmaceutical is not reasonably available;

(2) Procurement of an American manufactured pharmaceutical would jeopardize patient safety or clinical outcomes;

(3) The pharmaceutical is required in response to a public health emergency, drug shortage, or disaster; or

(4) The cost of the American manufactured pharmaceutical is substantially higher and would significantly limit patient access or care.

(e) Healthcare providers shall document the basis for any exception under subsection (d) of this Code section and retain such documentation for a minimum of three years.

(f) The department shall promulgate rules and regulations necessary to enforce this Code section.

(g) Failure to comply with this Code section may result in corrective action plans or, for repeated or willful violations, suspension or termination of eligibility to receive state funds.

(h) Nothing in this Code section shall be construed to interfere with a physician's independent medical judgment or patient-specific treatment decisions.

(i) Nothing in this Code section shall be construed to conflict with federal law, federal funding requirements, or regulations of the federal Food and Drug Administration."

SECTION 4.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.