

110TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To amend the Federal Food, Drug, and Cosmetic Act with respect to liability under State and local requirements respecting devices.

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IN THE HOUSE OF REPRESENTATIVES

Mr. PALLONE (for himself and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Federal Food, Drug, and Cosmetic Act with respect to liability under State and local requirements respecting devices.

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 “Medical Device Safety  
5 Act of 2008”.

6 **SEC. 2. LIABILITY UNDER STATE AND LOCAL REQUIRE-**  
7 **MENTS RESPECTING DEVICES.**

8 (a) AMENDMENT.—Section 521 of the Federal Food,  
9 Drug, and Cosmetic Act (21 U.S.C. 360k) is amended by  
10 adding at the end the following:

1       “(c) NO EFFECT ON LIABILITY UNDER STATE  
2 LAW.—Nothing in this section shall be construed to mod-  
3 ify or otherwise affect any action for damages or the liabil-  
4 ity of any person under the law of any State.”.

5       (b) EFFECTIVE DATE.—The amendment made by  
6 subsection (a) shall—

7           (1) take effect as if included in the enactment  
8       of the Medical Device Amendments of 1976 (Public  
9       Law 94-295); and

10          (2) apply to any civil action pending or filed on  
11       or after the date of enactment of this Act.