111TH CONGRESS
1ST SESSION

S. 540

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

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2009

Mr. KENNEDY (for himself, Mr. LEAHY, Mr. DURBIN, Mr. DODD, Mr. HARKIN, Mr. BINGAMAN, Mr. REED, Mr. SANDERS, Mr. BROWN, Mr. CASEY, Mrs. HAGAN, Mr. MERKLEY, Mr. WHITEHOUSE, Mrs. MCCASKILL, Mr. JOHNSON, Mr. SCHUMER, Mr. UDALL of New Mexico, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

---

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medical Device Safety Act of 2009''.

SEC. 2. LIABILITY UNDER STATE AND LOCAL REQUIREMENTS RESPECTING DEVICES.

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

''(e) NO EFFECT ON LIABILITY UNDER STATE LAW.—Nothing in this section shall be construed to modify or otherwise affect any action for damages or the liability of any person under the law of any State.''.

(b) EFFECTIVE DATE; APPLICABILITY.—The amendment made by subsection (a) shall—

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

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

○