

116TH CONGRESS
1ST SESSION

H. R. 2048

To prohibit the pricing of consumer products and services that are substantially similar if such products or services are priced differently based on the gender of the individuals for whose use the products are intended or marketed or for whom the services are performed or offered.

IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2019

Ms. SPEIER (for herself, Mrs. DINGELL, Ms. BONAMICI, Ms. WASSERMAN SCHULTZ, Ms. JUDY CHU of California, Mr. CICILLINE, Mrs. CAROLYN B. MALONEY of New York, Ms. MOORE, Mr. COHEN, Ms. NORTON, Ms. MENG, Ms. BROWNLEY of California, Mr. GRIJALVA, Ms. LOFGREN, Mr. MCNERNEY, Ms. SCHAKOWSKY, Mr. MCGOVERN, Ms. TITUS, Mr. KHANNA, Mr. RASKIN, Ms. CASTOR of Florida, Mr. JOHNSON of Georgia, Ms. ESHOO, Mrs. NAPOLITANO, Ms. VELÁZQUEZ, Ms. JAYAPAL, Mr. BEYER, Mr. LOWENTHAL, Mr. CISNEROS, Ms. JACKSON LEE, Ms. HAALAND, Mrs. WATSON COLEMAN, Ms. DELAURO, Ms. LEE of California, Mr. RYAN, Mrs. LAWRENCE, Ms. KELLY of Illinois, Ms. ROYBAL-ALLARD, Mr. KILDEE, Mr. ESPAILLAT, Ms. DEAN, Mrs. TORRES of California, Mr. RUSH, Mr. POCAN, Ms. OCASIO-CORTEZ, Mr. THOMPSON of Mississippi, Mr. MALINOWSKI, Mr. LAWSON of Florida, Mr. GREEN of Texas, Ms. FRANKEL, and Mr. REED) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To prohibit the pricing of consumer products and services that are substantially similar if such products or services are priced differently based on the gender of the individuals for whose use the products are intended or marketed or for whom the services are performed or offered.

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 “Pink Tax Repeal Act”.

5 **SEC. 2. PROHIBITION ON GENDER-BASED PRICING OF CON-**
6 **SUMER PRODUCTS AND SERVICES.**

7 (a) PROHIBITED PRACTICES.—

8 (1) CONSUMER PRODUCTS.—It shall be unlaw-
9 ful for any person to sell or offer for sale in inter-
10 state commerce any two consumer products from the
11 same manufacturer that are substantially similar if
12 such products are priced differently based on the
13 gender of the individuals for whose use the products
14 are intended or marketed.

15 (2) SERVICES.—It shall be unlawful for any
16 person to sell or offer for sale any services that are
17 substantially similar if such services are priced dif-
18 ferently based on the gender of the individuals for
19 which the services are performed, offered, or mar-
20 keted.

21 (b) UNFAIR AND DECEPTIVE ACT OR PRACTICE.—

22 A violation of subsection (a) shall be treated as a violation
23 of a rule prescribed under section 18(a)(1)(B) of the Fed-
24 eral Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) de-

1 fining an unfair or deceptive act or practice in or affecting
2 interstate commerce.

3 (c) ENFORCEMENT.—

4 (1) FEDERAL TRADE COMMISSION.—The Fed-
5 eral Trade Commission shall enforce this section in
6 the same manner, by the same means, and with the
7 same jurisdiction as though all applicable terms and
8 provisions of the Federal Trade Commission Act
9 were incorporated into and made a part of this Act.

10 (2) STATE ATTORNEYS GENERAL.—

11 (A) CIVIL ACTION.—In any case in which
12 the attorney general of a State has reason to
13 believe that an interest of the residents of that
14 State has been or is adversely affected by a vio-
15 lation of subsection (a), the attorney general
16 may, as *parens patriae*, bring a civil action on
17 behalf of the residents of the State in an appro-
18 priate district court of the United States—

19 (i) to enjoin further violation of this
20 Act by the defendant;

21 (ii) to compel compliance with this
22 Act; or

23 (iii) obtain damages, restitution, or
24 other compensation on behalf of residents
25 of the State.

(B) NOTICE TO THE FTC.—

(i) NOTICE.—Except as provided in clause (iii), the attorney general of a State shall notify the Commission in writing of any civil action under paragraph (2), prior to initiating such civil action.

(ii) CONTENTS.—The notice required by clause (i) shall include a copy of the complaint to be filed to initiate such civil action.

(iii) EXCEPTION.—If it is not feasible for the attorney general of a State to provide the notice required by clause (i), the State shall provide notice immediately upon instituting a civil action under subparagraph (A).

(C) INTERVENTION BY THE FTC.—Upon receiving notice required by subparagraph (B) with respect to a civil action, the Commission may—

(i) intervene in such action; and

(ii) upon intervening, be heard on all matters arising in such civil action and file petitions for appeal of a decision in such action.

1 (D) PREEMPTIVE ACTION BY THE FTC.—

2 If the Commission institutes a civil action for
3 violation of this Act, no attorney general of a
4 State may bring a civil action under this para-
5 graph against any defendant named in the com-
6 plaint of the Commission for violation of this
7 Act that is alleged in such complaint.

8 (d) RULES OF CONSTRUCTION.—

9 (1) SUBSTANTIALLY SIMILAR PRODUCTS.—For
10 purposes of this Act, two consumer products are
11 substantially similar if there are no substantial dif-
12 ferences in the materials used in the product, the in-
13 tended uses of the product, and the functional de-
14 sign and features of the product. A difference in
15 coloring among any consumer products shall not be
16 construed as a substantial difference for purposes of
17 this paragraph.

18 (2) SUBSTANTIALLY SIMILAR SERVICES.—For
19 purposes of this Act, two services are substantially
20 similar if there is no substantial difference in the
21 amount of time to provide the services, the difficulty
22 in providing the services, or the cost of providing the
23 services.

24 (e) DEFINITION OF CONSUMER PRODUCT.—The
25 term “consumer product” has the meaning given such

1 term in section 3 of the Consumer Product Safety Act (15
2 U.S.C. 2052) and includes a device or cosmetics, as such
3 terms are defined in section 201 of the Federal Food,
4 Drug, and Cosmetic Act (21 U.S.C. 321). Such term in-
5 cludes a child restraint system, as such term is defined
6 in section 571.213 of title 49, Code of Federal Regula-
7 tions.

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