

116TH CONGRESS  
2D SESSION

# S. 3862

To increase the penalties applicable under the Federal Trade Commission Act during the COVID–19 emergency, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 2, 2020

Mr. GARDNER (for himself, Ms. SINEMA, and Mrs. CAPITO) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To increase the penalties applicable under the Federal Trade Commission Act during the COVID–19 emergency, 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 “Combating Egregious  
5 Advertising through Sentencing Enhancement Act” or the  
6 “CEASE Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

1           (1) COMMISSION.—The term “Commission”  
2 means the Federal Trade Commission.

3           (2) COVID–19 EMERGENCY PERIOD.—The  
4 term “COVID–19 emergency period” means the pe-  
5 riod that—

6                   (A) begins on the date of enactment of this  
7 Act; and

8                   (B) ends on the last day of the public  
9 health emergency described in section  
10 1135(g)(1)(B) of the Social Security Act (42  
11 U.S.C. 1320b–5(g)(1)(B)).

12 **SEC. 3. INCREASING THE PENALTY FOR FALSE ADVER-**  
13 **TISING DURING THE COVID–19 EMERGENCY**  
14 **PERIOD.**

15       Notwithstanding section 14(a) of the Federal Trade  
16 Commission Act (15 U.S.C. 54(a)), any person, partner-  
17 ship, or corporation who violates any provision of section  
18 12(a) of such Act (15 U.S.C. 52(a)) during the COVID–  
19 19 emergency period shall—

20           (1) for a first offense, be guilty of a mis-  
21 demeanor and upon conviction shall be punished by  
22 a fine of not more than \$50,000 or by imprisonment  
23 for not more than 1 year, or both such fine and im-  
24 prisonment; and

1           (2) for a second or subsequent offense, be guilty  
2 of a felony and upon conviction shall be punished by  
3 a fine of not more than \$250,000 or by imprison-  
4 ment for not less than 1 year and not more than 5  
5 years, or both such fine and imprisonment.

6 **SEC. 4. INCREASING THE PENALTY FOR UNFAIR METHODS**  
7 **OF COMPETITION AND UNFAIR OR DECEP-**  
8 **TIVE ACTS OR PRACTICES DURING THE**  
9 **COVID-19 EMERGENCY PERIOD.**

10 Notwithstanding subsections (l), (m)(1)(A), and  
11 (m)(1)(B) of section 5 of the Federal Trade Commission  
12 Act (42 U.S.C. 45), any penalties that are applicable  
13 under such subsections with respect to conduct occurring  
14 during the COVID-19 emergency period shall be in-  
15 creased—

16           (1) for a first offense, to \$50,000; and

17           (2) for a second or subsequent offense, to  
18 \$250,000.

19 **SEC. 5. PROHIBITING UNFAIR OR DECEPTIVE ACTS OR**  
20 **PRACTICES RELATING TO COVID-19 DURING**  
21 **THE COVID-19 EMERGENCY PERIOD.**

22           (a) IN GENERAL.—During the COVID-19 emergency  
23 period, it shall be unlawful for any person, partnership,  
24 or corporation to engage in an unfair or deceptive act or  
25 practice in or affecting commerce that—

1 (1) violates section 5(a) of the Federal Trade  
2 Commission Act (15 U.S.C. 45(a)); and

3 (2) relates to the COVID–19 pandemic.

4 (b) ENFORCEMENT.—

5 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
6 TICES.—A violation of this section shall be treated  
7 as a violation of a rule defining an unfair or decep-  
8 tive act or practice prescribed under section  
9 18(a)(1)(B) of the Federal Trade Commission Act  
10 (15 U.S.C. 57a(a)(1)(B)).

11 (2) POWERS OF THE COMMISSION.—

12 (A) IN GENERAL.—The Commission shall  
13 enforce this section in the same manner, by the  
14 same means, and with the same jurisdiction,  
15 powers, and duties as though all applicable  
16 terms and provisions of the Federal Trade  
17 Commission Act (15 U.S.C. 41 et seq.) were in-  
18 corporated into and made a part of this section.

19 (B) PRIVILEGES AND IMMUNITIES.—Any  
20 person who violates this section shall be subject  
21 to the penalties and entitled to the privileges  
22 and immunities provided in the Federal Trade  
23 Commission Act.

24 (C) EFFECT ON OTHER LAWS.—Nothing in  
25 this Act shall be construed to limit the author-

1           ity of the Commission under any other provi-  
2           sion of law.

3 **SEC. 6. RULE OF CONSTRUCTION.**

4           Nothing in this Act shall be construed to limit or en-  
5           hance the authority of the Commission (other than with  
6           respect to the penalties that the Commission may seek  
7           under the Federal Trade Commission Act (15 U.S.C. 41  
8           et seq.) for conduct occurring during the COVID-19  
9           emergency period) under any other provision of law.

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