

116TH CONGRESS
2D SESSION

H. R. 6472

To prohibit price gouging in connection with the public health emergency
resulting from COVID–19, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 2020

Ms. SCHAKOWSKY (for herself, Mr. PALLONE, Mr. CICILLINE, Mr. NADLER,
Mr. CÁRDENAS, and Mr. LUJÁN) introduced the following bill; which was
referred to the Committee on Energy and Commerce

A BILL

To prohibit price gouging in connection with the public
health emergency resulting from COVID–19, 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 “COVID–19 Price
5 Gouging Prevention Act”.

6 **SEC. 2. PREVENTION OF PRICE GOUGING.**

7 (a) IN GENERAL.—For the duration of a public
8 health emergency declared pursuant to section 319 of the
9 Public Health Service Act (42 U.S.C. 247d) as a result

1 of confirmed cases of 2019 novel coronavirus (COVID–
2 19), including any renewal thereof, it shall be unlawful
3 for any person to sell or offer for sale a good or service
4 at a price that—

5 (1) is unconscionably excessive; and

6 (2) indicates the seller is using the circumstan-
7 ces related to such public health emergency to in-
8 crease prices unreasonably.

9 (b) FACTORS FOR CONSIDERATION.—In determining
10 whether a person has violated subsection (a), there shall
11 be taken into account, with respect to the price at which
12 such person sold or offered for sale the good or service,
13 factors that include the following:

14 (1) Whether such price grossly exceeds the av-
15 erage price at which the same or a similar good or
16 service was sold or offered for sale by such person—

17 (A) during the 90-day period immediately
18 preceding January 31, 2020; or

19 (B) during the same 90-day period of the
20 previous year.

21 (2) Whether such price grossly exceeds the av-
22 erage price at which the same or a similar good or
23 service was readily obtainable from other similarly
24 situated competing sellers before January 31, 2020.

(3) Whether such price reasonably reflects additional costs, not within the control of such person, that were paid, incurred, or reasonably anticipated by such person, or reasonably reflects the profitability of forgone sales or additional risks taken by such person, to produce, distribute, obtain, or sell such good or service under the circumstances.

(c) ENFORCEMENT.—

(1) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

(A) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A violation of subsection (a) shall be treated as a violation of a regulation under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts or practices.

(B) POWERS OF COMMISSION.—The Commission shall enforce subsection (a) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any person who violates such subsection shall be subject to the penalties and entitled to

1 the privileges and immunities provided in the
2 Federal Trade Commission Act.

3 (2) EFFECT ON OTHER LAWS.—Nothing in this
4 Act shall be construed in any way to limit the au-
5 thority of the Commission under any other provision
6 of law.

7 (3) ENFORCEMENT BY STATE ATTORNEYS GEN-
8 ERAL.—

9 (A) IN GENERAL.—If the chief law en-
10 forcement officer of a State, or an official or
11 agency designated by a State, has reason to be-
12 lieve that any person has violated or is violating
13 subsection (a), the attorney general, official, or
14 agency of the State, in addition to any author-
15 ity it may have to bring an action in State
16 court under its consumer protection law, may
17 bring a civil action in any appropriate United
18 States district court or in any other court of
19 competent jurisdiction, including a State court,
20 to—

21 (i) enjoin further such violation by
22 such person;

23 (ii) enforce compliance with such sub-
24 section;

25 (iii) obtain civil penalties; and

1 (iv) obtain damages, restitution, or
2 other compensation on behalf of residents
3 of the State.

4 (B) NOTICE AND INTERVENTION BY THE
5 FTC.—The attorney general of a State shall
6 provide prior written notice of any action under
7 subparagraph (A) to the Commission and pro-
8 vide the Commission with a copy of the com-
9 plaint in the action, except in any case in which
10 such prior notice is not feasible, in which case
11 the attorney general shall serve such notice im-
12 mediately upon instituting such action. The
13 Commission shall have the right—

14 (i) to intervene in the action;
15 (ii) upon so intervening, to be heard
16 on all matters arising therein; and
17 (iii) to file petitions for appeal.

18 (C) LIMITATION ON STATE ACTION WHILE
19 FEDERAL ACTION IS PENDING.—If the Commis-
20 sion has instituted a civil action for violation of
21 this Act, no State attorney general, or official
22 or agency of a State, may bring an action under
23 this paragraph during the pendency of that ac-
24 tion against any defendant named in the com-

1 plaint of the Commission for any violation of
2 this Act alleged in the complaint.

3 (D) RELATIONSHIP WITH STATE-LAW
4 CLAIMS.—If the attorney general of a State has
5 authority to bring an action under State law di-
6 rected at acts or practices that also violate this
7 Act, the attorney general may assert the State-
8 law claim and a claim under this Act in the
9 same civil action.

10 (4) SAVINGS CLAUSE.—Nothing in this Act
11 shall preempt or otherwise affect any State or local
12 law.

13 (d) DEFINITIONS.—In this section:

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

16 (2) GOOD OR SERVICE.—The term “good or
17 service” means a good or service offered in com-
18 merce, including—

19 (A) food, beverages, water, ice, a chemical,
20 or a personal hygiene product;

21 (B) any personal protective equipment for
22 protection from or prevention of contagious dis-
23 eases, filtering facepiece respirators, medical
24 supplies (including medical testing supplies),
25 cleaning supplies, disinfectants, sanitizers; or

1 (C) any healthcare service, cleaning serv-
2 ice, or delivery service.

3 (3) STATE.—The term “State” means each of
4 the several States, the District of Columbia, each
5 commonwealth, territory, or possession of the United
6 States, and each federally recognized Indian Tribe.

○