To protect consumers from price-gouging of gasoline and other fuels, and for other purposes.
A BILL

To protect consumers from price-gouging of gasoline and other fuels, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Price Gouging Prevention Act”.

SEC. 2. UNCONSCIONABLE PRICING OF GASOLINE, OIL, NATURAL GAS, AND PETROLEUM DIS-
TILLATES DURING EMERGENCIES.

(a) UNCONSCIONABLE PRICING.—

(1) IN GENERAL.—It shall be unlawful for any
person to sell crude oil, gasoline, natural gas, or pe-
troleum distillates at a price that—

(A) is unconscionably excessive; or

(B) indicates the seller is taking unfair ad-
vantage unusual market conditions (whether
real or perceived) or the circumstances of an
emergency to increase prices unreasonably.

(2) FACTORS CONSIDERED.—In determining
whether a violation of paragraph (1) has occurred,
there shall be taken into account, among other fac-
tors, whether—
(A) the amount charged represents a gross disparity between the price of the crude oil, gasoline, natural gas, or petroleum distillate sold and the average price at which it was offered for sale by the seller during the preceding 30 days; or

(B) the amount charged grossly exceeds the price at which the same or similar crude oil, gasoline, natural gas, or petroleum distillate was readily obtainable by other purchasers in the same geographical area.

(3) Mitigating Factors.—In determining whether a violation of paragraph (1) has occurred, there also shall be taken into account, among other factors, whether the price at which the crude oil, gasoline, natural gas, or petroleum distillate was sold reasonably reflects additional costs, not within the control of the seller, that were paid or incurred by the seller.

(b) False Pricing Information.—It is unlawful for any person to report information related to the wholesale price of crude oil, gasoline, natural gas, or petroleum distillates to the Federal Trade Commission if—

(1) that person knew, or reasonably should have known, the information to be false or misleading;
(2) the information was required by law to be reported; and

(3) the person intended the false or misleading data to affect data compiled by that department or agency for statistical or analytical purposes with respect to the market for crude oil, gasoline, natural gas, or petroleum distillates.

(c) MARKET MANIPULATION.—It is unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of crude oil, gasoline, natural gas, or petroleum distillates at wholesale, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Federal Trade Commission may prescribe as necessary or appropriate in the public interest or for the protection of United States citizens.

(d) RULEMAKING.—Not later than 180 days after the date of the enactment of this Act, the Federal Trade Commission shall promulgate rules necessary and appropriate to enforce this section.

SEC. 3. ENFORCEMENT BY THE FEDERAL TRADE COMMISSION.

(a) ENFORCEMENT BY FTC.—A violation of section 2 shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section
18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)). The Federal Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act. In enforcing section 2(a) of this Act, the Commission shall give priority to enforcement actions concerning companies with total United States wholesale or retail sales of crude oil, gasoline, and petroleum distillates in excess of $500,000,000 per year.

(b) Civil Penalties.—

(1) In general.—Notwithstanding the penalties set forth under the Federal Trade Commission Act, any person who violates this Act shall be subject to the following penalties:

(A) Price gouging; unjust profits.—Any person who violates section 2(a) of this Act shall be subject to—

(i) a fine of not more than 3 times the amount of profits gained by such person through such violation; or

(ii) a fine of not more than $3,000,000.
(B) FALSE INFORMATION; MARKET MANIPULATION.—Any person who violates section 2(b) or 2(c) of this Act shall be subject to a civil penalty of not more than $1,000,000.

(2) METHOD OF ASSESSMENT.—The penalties provided by paragraph (1) shall be assessed in the same manner as civil penalties imposed under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) MULTIPLE OFFENSES; MITIGATING FACTORS.—In assessing the penalty provided by subsection (a)—

   (A) each day of a continuing violation shall be considered a separate violation; and

   (B) the Federal Trade Commission shall take into consideration the seriousness of the violation and the efforts of the person committing the violation to remedy the harm caused by the violation in a timely manner.

SEC. 4. CRIMINAL PENALTIES.

Any person who violates section 2 or any rule or order issued thereunder shall be fined under title 18, United States Code—

   (1) if a corporation, not to exceed $150,000,000; or
(2) if any other person, not to exceed $2,000,000, or imprisoned for not more than 10 years, or both.

SEC. 5. ENFORCEMENT AT RETAIL LEVEL BY STATE ATTORNEYS GENERAL.

(a) In General.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the provisions of section 2(a) of this Act, or to impose the civil penalties authorized by section 3(b)(1)(B), whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a violation of this Act or a regulation under this Act.

(b) Notice.—The State shall serve written notice to the Federal Trade Commission of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

(e) Authority To Intervene.—Upon receiving the notice required by subsection (b), the Federal Trade Com-
mission may intervene in such civil action and upon interven-

(1) be heard on all matters arising in such civil

action; and

(2) file petitions for appeal of a decision in such
civil action.

(d) CONSTRUCTION.—For purposes of bringing any
civil action under subsection (a), nothing in this section
shall prevent the attorney general of a State from exerc-
cising the powers conferred on the attorney general by the
laws of such State to conduct investigations or to admin-
ister oaths or affirmations or to compel the attendance
of witnesses or the production of documentary and other
evidence.

(e) VENUE; SERVICE OF PROCESS.—In a civil action
brought under subsection (a)—

(1) the venue shall be a judicial district in

which—

(A) the defendant operates;

(B) the defendant was authorized to do

business; or

(C) where the defendant in the civil action

is found;
(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

(3) a person who participated with the defendant in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(f) **Limitation on State Action While Federal Action Is Pending.**—If the Federal Trade Commission has instituted a civil action or an administrative action for violation of this Act, no State attorney general, or official or agency of a State, may bring an action under this subsection during the pendency of that action against any defendant named in the complaint of the Federal Trade Commission or the other agency for any violation of this Act alleged in the complaint.

(g) **Enforcement of State Law.**—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a civil or criminal statute of such State.

**SEC. 6. LOW INCOME ENERGY ASSISTANCE.**

Amounts collected in fines and penalties under sections 3 or 4 of this Act shall be deposited in a separate fund in the treasury to be known as the Consumer Relief Trust Fund. To the extent provided for in advance in ap-
propriations Acts fund shall be used to provide assistance under the Low Income Home Energy Assistance Program administered by the Secretary of Health and Human Services.

SEC. 7. EFFECT ON OTHER LAWS.

(a) Other Authority of Federal Trade Commission.—Nothing in this Act shall be construed to limit or affect in any way the Federal Trade Commission’s authority to bring enforcement actions or take any other measure under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any other provision of law.

(b) State Law.—Nothing in this Act preempts any State law.

SEC. 8. MARKET TRANSPARENCY FOR CRUDE OIL, GASOLINE, AND PETROLEUM DISTILLATES.

(a) In General.—The Federal Trade Commission shall facilitate price transparency in markets for the sale of crude oil and essential petroleum products at wholesale, having due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

(b) Marketplace Transparency.—

(1) Dissemination of Information.—In carrying out this section the Federal Trade Commission shall provide by rule for the dissemination, on a
timely basis, of information about the availability
and prices of wholesale crude oil, gasoline, and pe-
troleum distillates to the Federal Trade Commission,
States, wholesale buyers and sellers, and the public.

(2) Protection of Public from Anticompetitive Activity.—In determining the infor-
mation to be made available under this section and
time to make the information available, the Federal
Trade Commission shall seek to ensure that con-
sumers and competitive markets are protected from
the adverse effects of potential collusion or other
anticompetitive behaviors that can be facilitated by
untimely public disclosure of transaction-specific in-
formation.

(3) Protection of Market Mechanisms.—
The Federal Trade Commission shall withhold from
public disclosure under this section any information
the Commission determines would, if disclosed, be
detrimental to the operation of an effective market
or jeopardize system security.

(e) Information Sources.—

(1) In General.—In carrying out subsection
(b), the Federal Trade Commission may—

(A) obtain information from any market
participant; and
(B) rely on entities other than the Commission to receive and make public the information, subject to the disclosure rules in subsection (b)(3).

(2) Published Data.—In carrying out this section, the Federal Trade Commission shall consider the degree of price transparency provided by existing price publishers and providers of trade processing services, and shall rely on such publishers and services to the maximum extent possible.

(3) Electronic Information Systems.—The Federal Trade Commission may establish an electronic information system if it determines that existing price publications are not adequately providing price discovery or market transparency. Nothing in this section, however, shall affect any electronic information filing requirements in effect under this Act as of the date of enactment of this section.

(4) De minimus Exception.—The Federal Trade Commission may not require entities who have a de minimus market presence to comply with the reporting requirements of this section.

(d) Cooperation With Other Federal Agencies.—
(1) **MEMORANDUM OF UNDERSTANDING.**— Within 180 days after the date of enactment of this Act, the Federal Trade Commission shall conclude a memorandum of understanding with the Commodity Futures Trading Commission and other appropriate agencies (if applicable) relating to information sharing, which shall include provisions—

(A) ensuring that information requests to markets within the respective jurisdiction of each agency are properly coordinated to minimize duplicative information requests; and

(B) regarding the treatment of proprietary trading information.

(2) **CFTC JURISDICTION.**—Nothing in this section may be construed to limit or affect the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(e) **RULEMAKING.**—Within 180 days after the date of enactment of this Act, the Federal Trade Commission shall initiate a rulemaking proceeding to establish such rules as the Commission determines to be necessary and appropriate to carry out this section.