

108TH CONGRESS
1ST SESSION

H. R. 3236

To prohibit price gouging of products and services that are widely needed during a designated disaster.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2003

Mr. KLECZKA (for himself and Mr. ETHERIDGE) introduced the following bill;
which was referred to the Committee on Energy and Commerce

A BILL

To prohibit price gouging of products and services that are widely needed during a designated disaster.

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 “Permanently Inhibit
5 Gougers Act”.

6 **SEC. 2. CONDUCT PROHIBITED.**

7 (a) IN GENERAL.—It shall be unlawful for any com-
8 mercial vendor in an area and during a period described
9 in subsection (b) to raise the price of products or services
10 that are widely needed in such an area during such period,

1 by more than 10 percent above the average retail price
2 of such goods or services charged by that vendor during
3 the preceding 90 days.

4 (b) APPLICABLE AREA AND PERIOD.—The prohibi-
5 tion in subsection (a) shall apply to commercial vendors
6 in areas in the United States which have been designated
7 disaster areas by the President or by the Governor of a
8 State, and shall apply—

9 (1) for 90 days after such designation is made;
10 and

11 (2) for a period of 7 days before a disaster that
12 results in an area being designated a disaster area,
13 if the disaster is reasonably foreseeable by commer-
14 cial vendors in such an area during such a 7 day pe-
15 riod.

16 **SEC. 3. REGULATIONS.**

17 Not later than 180 days after the date of enactment
18 of this Act, the Federal Trade Commission shall prescribe
19 regulations pursuant to section 18(a) of the Federal Trade
20 Commission Act (15 U.S.C. 57a(a)) providing that the
21 conduct described in section 2 shall be an unfair or decep-
22 tive act or practice under section 5 of such Act (15 U.S.C.
23 45), and implementing the requirements of this Act. Such
24 regulations—

1 (1) shall include a list of products and services
2 that are likely to be widely needed in a designated
3 disaster area which shall be subject to the prohibi-
4 tion in section 2;

5 (2) may establish a means for determining the
6 average retail price of such products and services
7 charged by a particular vendor during the 90 day
8 period preceding the designation of the area as a
9 disaster area;

10 (3) shall include guidelines for determining
11 whether, during the period described in section
12 2(b)(2), the disaster was reasonably foreseeable to
13 commercial vendors in the area; and

14 (4) shall include an exemption for commercial
15 vendors subject to the prohibition in section 2—

16 (A) when there is an increase in the whole-
17 sale costs to such vendors of products subject to
18 such prohibition; or

19 (B) when there is a legitimate increase in
20 the operational costs to such vendors in pro-
21 viding services subject to such prohibition,
22 and such vendors raise the price of such products
23 and services no more than the increased wholesale or
24 operational cost to the vendor, plus 10 percent.

1 **SEC. 4. SPECIAL PENALTY PROVISION.**

2 Notwithstanding subsections (l) and (m) of section 5
3 of the Federal Trade Commission Act (15 U.S.C. 45(l)
4 and (m)), the maximum amount of civil penalty for each
5 violation of this Act and the regulations prescribed under
6 this Act shall be \$250,000.

7 **SEC. 5. PRIVATE RIGHT OF ACTION.**

8 A person, class of persons, or entity may, if otherwise
9 permitted by the laws or rules of a court of a State, bring
10 in an appropriate court of that State—

11 (1) an action based on a violation of this Act
12 or the regulations prescribed under this Act to en-
13 join such violation;

14 (2) an action to recover up to 3 times the ac-
15 tual monetary loss to such person, class of persons,
16 or entity from such a violation; or

17 (3) both such actions.

18 **SEC. 6. EFFECTIVE DATE.**

19 This Act shall take effect on the date on which the
20 regulations required by section 3 shall take effect.

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