

109TH CONGRESS  
1ST SESSION

# H. R. 3681

To amend the Clayton Act to make unlawful price gouging for necessary goods and services during Presidentially declared times of national disaster.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 2005

Mr. CONYERS (for himself, Mr. NADLER, Mr. MEEHAN, Mr. SCOTT of Virginia, Ms. ZOE LOFGREN of California, Mr. DELAHUNT, Ms. LINDA T. SÁNCHEZ of California, Ms. WASSERMAN SCHULTZ, Ms. JACKSON-LEE of Texas, Mr. THOMPSON of Mississippi, Mr. JEFFERSON, Mr. SCHIFF, Mr. TAYLOR of Mississippi, Mr. CROWLEY, Mr. SANDERS, Mr. VAN HOLLEN, Mr. CASE, Ms. WATSON, Mr. CAPUANO, Mr. BOREN, Mr. FILNER, Mr. KUCINICH, Mr. McDERMOTT, Ms. MCCOLLUM of Minnesota, Mr. WEINER, Mr. GEORGE MILLER of California, Mr. LARSON of Connecticut, Mr. AL GREEN of Texas, Ms. LEE, Ms. KILPATRICK of Michigan, Ms. CARSON, Mrs. MALONEY, Mr. CLEAVER, Ms. ROYBAL-ALLARD, Mr. INSLEE, and Mr. SERRANO) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Clayton Act to make unlawful price gouging for necessary goods and services during Presidentially declared times of national 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 “Anti-Price Gouging  
5 Act of 2005”.

1 **SEC. 2. AMENDMENT.**

2 The Clayton Act (15 U.S.C. 12 et seq.) is amended  
3 by adding at the end thereof the following:

4 “SEC. 28. (a) During any time of national disaster,  
5 it shall be unlawful for any person engaged in commerce,  
6 in the course of such commerce, to sell, lease, or license,  
7 or to offer to sell, lease, or license, any necessary good  
8 or service at an unconscionable price in the United States.  
9 For purposes of determining whether a price is uncon-  
10 scionable, the following shall be considered:

11 “(1) Whether the price charged or offered by  
12 the person grossly exceeded both—

13 “(A) the price charged by the person for  
14 the same or a similar good or service during the  
15 10-day period immediately preceding the time  
16 of national disaster; and

17 “(B) the price at which the person usually  
18 offers the same or a similar good or service.

19 “(2) Whether the price charged or offered by  
20 the person grossly exceeded the price at which the  
21 same or a similar good or service was readily obtain-  
22 able in the relevant trade area during the 10-day pe-  
23 riod immediately preceding the time of national dis-  
24 aster.

25 “(3) Whether the price charged or offered by  
26 the person was attributable solely to an additional

1 cost incurred by the person in connection with the  
2 sale, lease, or license of the good or service, includ-  
3 ing an additional cost imposed by the person's  
4 source. Proof that the person incurred such addi-  
5 tional cost during the time of national disaster shall  
6 be prima facie evidence that the price charged or of-  
7 fered during such time of national disaster was not  
8 unconscionable.

9 “(4) Whether the price charged or offered by  
10 the person was attributable solely to a regular sea-  
11 sonal or holiday adjustment in the price charged or  
12 offered for the good or service. Proof that the person  
13 regularly increased the price for the good or service  
14 during a similar period occurring in the time of na-  
15 tional disaster shall be prima facie evidence that the  
16 price charged or offered during such time of national  
17 disaster was not unconscionable during such similar  
18 period.

19 “(b) For purposes of this section—

20 “(1) the term ‘necessary good or service’ means  
21 any good or service for which demand does, or is  
22 likely to, increase as a consequence of the national  
23 disaster and includes, but is not limited to, water,  
24 ice, consumer food items or supplies, property or  
25 services for emergency cleanup, emergency supplies,

1 communication supplies and services, medical sup-  
2 plies and services, home heating fuel, building mate-  
3 rials and services, tree removal supplies and services,  
4 freight, storage services, housing, lodging, transpor-  
5 tation, and motor fuels; and

6 “(2) the term ‘time of national disaster’ means  
7 the period during which there is in effect a declara-  
8 tion of a major disaster, or a declaration of an emer-  
9 gency, issued by the President under the Robert T.  
10 Stafford Disaster Relief and Emergency Assistance  
11 Act (42 U.S.C. 5122 et seq.).”.

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