

116TH CONGRESS
2D SESSION

H. R. 6450

To prevent price gouging during emergencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2020

Mr. NEGUSE introduced the following bill; which was referred to the
Committee on Energy and Commerce

A BILL

To prevent price gouging during emergencies, 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 “Price Gouging Preven-
5 tion Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) During a national emergency, state of emer-
9 gency, or public health emergency, some merchants
10 have taken unfair advantage of consumers by greatly
11 increasing prices for essential consumer goods.

1 (2) While the pricing of consumer goods and
2 other supplies is generally best left to the market-
3 place under ordinary conditions, when a declared na-
4 tional emergency or state of emergency results in ab-
5 normal disruptions of the market, the public interest
6 requires that excessive and unjustified increases in
7 the prices of essential consumer goods be prohibited.

8 (3) To protect citizens from excessive and un-
9 justified increases in the prices charged during or
10 shortly after a declared national emergency or state
11 of emergency for consumer goods and supplies that
12 are vital and necessary for the health, safety, and
13 welfare of consumers is of utmost concern and im-
14 portance.

15 **SEC. 3. PREVENTION OF PRICE GOUGING DURING EMER-**
16 **GENCIES.**

17 (a) IN GENERAL.—During an emergency declaration,
18 including a renewal thereof, and for a period of 30 days
19 after such emergency period ends, it shall be unlawful, in
20 the region or State affected by the emergency declaration,
21 for any seller to sell or offer to sell any consumer good
22 for a price that is more than 10 percent greater than the
23 price charged by similarly situated sellers for those con-
24 sumer goods during the 120-day period before the date
25 of the declaration of the emergency.

1 (b) FACTORS FOR CONSIDERATION.—In determining
2 whether a seller has violated subsection (a), there shall
3 be taken into account, with respect to the price at which
4 such seller sold or offered for sale the consumer good, fac-
5 tors that include—

6 (1) whether such increase in price was directly
7 attributable to additional costs of the consumer
8 goods, or directly attributable to additional costs for
9 labor or materials used to provide the consumer
10 goods during the emergency declaration; and

11 (2) whether such price is not more than 10 per-
12 cent greater than the total of the cost to the seller
13 plus the markup customarily applied by the seller for
14 that consumer good in the usual course of business
15 before the onset of the public health emergency.

16 (c) ENFORCEMENT.—

17 (1) ENFORCEMENT BY FEDERAL TRADE COM-
18 MISSION.—

19 (A) UNFAIR OR DECEPTIVE ACTS OR PRAC-
20 TICES.—A violation of subsection (a) shall be
21 treated as a violation of a regulation under sec-
22 tion 18(a)(1)(B) of the Federal Trade Commis-
23 sion Act (15 U.S.C. 57a(a)(1)(B)) regarding
24 unfair or deceptive acts or practices.

1 (B) POWERS OF COMMISSION.—The Com-
2 mission shall enforce subsection (a) in the same
3 manner, by the same means, and with the same
4 jurisdiction, powers, and duties as though all
5 applicable terms and provisions of the Federal
6 Trade Commission Act (15 U.S.C. 41 et seq.)
7 were incorporated into and made a part of this
8 section. Any person who violates such sub-
9 section shall be subject to the penalties and en-
10 titled to the privileges and immunities provided
11 in the Federal Trade Commission Act.

12 (2) EFFECT ON OTHER LAWS.—Nothing in this
13 section shall be construed in any way to limit the
14 authority of the Commission under any other provi-
15 sion.

16 (3) ENFORCEMENT BY STATE ATTORNEYS GEN-
17 ERAL.—

18 (A) IN GENERAL.—If the attorney general
19 of a State, or another official or agency des-
20 ignated by a State, has reason to believe that
21 any person has violated or is violating sub-
22 section (a), the attorney general, official, or
23 agency of the State, in addition to any author-
24 ity it may have to bring an action in State
25 court under its consumer protection law, may

bring a civil action in any appropriate United States district court or in any other court of competent jurisdiction, including a State court, to—

(i) enjoin further such violation by such person;

(ii) enforce compliance with subsection (a);

(iii) obtain civil penalties; and

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

(B) NOTICE.—Before filing an action under subparagraph (A), the attorney general, official, or agency of the State involved shall provide to the Commission a written notice of such action and a copy of the complaint for such action. If the attorney general, official, or agency determines that it is not feasible to provide the notice described in this subsection before the filing of the action, the attorney general, official, or agency shall provide written notice of the action and a copy of the complaint to the Commission immediately upon the filing of the action.

(C) AUTHORITY OF COMMISSION.—On receiving notice under subparagraph (B) of an action under this section, the Commission shall have the right—

(i) to intervene in the action;

(ii) upon so intervening, to be heard on all matters arising therein; and

(iii) to file petitions for appeal.

(D) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Commission has instituted a civil action for violation of this section, no State attorney general, or official or agency of a State, may bring an action under this paragraph during the pendency of that action against any defendant named in the complaint of the Commission for any violation of this section alleged in the complaint.

(d) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) CONSUMER GOOD.—The term “consumer good” means a good offered in commerce, including—

(A) food, water, ice, flashlights, radios, batteries, candles, blankets, soaps, diapers,

1 toiletries, gasoline, generators, temporary shel-
2 ters, plywood, nails, hammers;

3 (B) prescription and nonprescription medi-
4 cations, bandages, gauze, isopropyl alcohol, any
5 personal protective equipment for protection
6 from or prevention of a contagious disease,
7 antibacterial materials; or

8 (C) goods vital and necessary for the
9 health, safety, welfare of consumers deemed
10 necessary by public health officials during a de-
11 clared public health emergency.

12 (2) EMERGENCY DECLARATION.—The term
13 “emergency declaration” means—

14 (A) a public health emergency declared
15 pursuant to section 319 of the Public Health
16 Service Act (42 U.S.C. 247d); and

17 (B) a declaration of emergency declared
18 pursuant to the Robert T. Stafford Disaster
19 Relief and Emergency Assistance Act (42
20 U.S.C. 5121 note).

21 (3) SELLER.—The term “seller” means any
22 person selling or offering for sale any consumer
23 good, as defined in such section.

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