GENERAL LEAVE

Ms. SCHWARTZ. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Pennsylvania?

There was no objection.

Ms. SCHWARTZ. I just want to close by thanking my colleague Mr. JOHNSON for working with me on this legislation this year, and for encouraging even in these difficult economic times that all Americans think about saving even a little bit of I week. With compound interest, it does add up, particularly if you start young to do that. But any time is good. And certainly as we recognize that there is increasing reliance on our own individual ability to save and to think about the future, this is an important resolution that can help Americans have greater financial security in their retirement.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Pennsylvania (Ms. SCHWARTZ) that the House suspend the rules and agree to the resolution, H. Res. 1294.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

FEDERAL PRICE GOUGING PREVENTION ACT

Mr. STUPAK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6346) to protect consumers from price-gouging of gasoline and other fuels, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6346

SECTION 1. SHORT TITLE.

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

SEC. 2. UNCONSCIONABLE PRICING OF GASOLINE AND OTHER PETROLEUM DISTILLATES DURING EMERGENCIES.

(a) UNCONSCIONABLE PRICING.—

(1) IN GENERAL.—It shall be unlawful for any person to sell, at wholesale or at retail in an area and during a period of an energy emergency, gasoline or any other petroleum distillate covered by a proclamation issued under paragraph (2) at a price that—

(A) is unconscionably excessive; and

(B) indicates the seller is taking unfair advantage of the circumstances related to an energy emergency to increase prices unreasonably.

(2) ENERGY EMERGENCY PROCLAMATION.—

(A) IN GENERAL.—The President may issue an energy emergency proclamation for any area within the jurisdiction of the United States, during which the prohibition in paragraph (1) shall apply. The proclamation shall state the geographic area covered, the gasoline or other petroleum distillate covered, and the time period that such proclamation shall be in effect.

(B) DURATION.—The proclamation—

(i) may not apply for a period of more than 30 consecutive days, but may be renewed for such consecutive periods, each not to exceed 30 days, as the President determines appropriate; and

(ii) may include a period of time not to exceed 1 week preceding a reasonably foreseeable emergency.

(3) FACTORS CONSIDERED.—In determining whether a person has violated paragraph (1), there shall be taken into account, among other factors—

(A) whether the amount charged by such person for the applicable gasoline or other petroleum distillate at a particular location in an area covered by a proclamation issued under paragraph (2) during the period such proclamation is in effect—

(i) grossly exceeds the average price at which the applicable gasoline or other petroleum distillate was offered for sale by that person during the 30 days prior to such proclamation;

(ii) grossly exceeds the price at which the same or similar gasoline or other petroleum distillate was readily obtainable in the same area from other competing sellers during the same period;

(iii) reasonably reflected additional costs, not within the control of that person, that were paid, incurred, or reasonably anticipated by that person, or reflected additional risks taken by that person to produce, distribute, obtain, or sell such product under the circumstances; and

(iv) was substantially attributable to local, regional, national, or international market conditions; and

(B) whether the quantity of gasoline or other petroleum distillate the person produced, distributed, or sold in an area covered by a proclamation issued under paragraph (2) during a 30-day period following the issuance of such proclamation increased over the quantity that that person produced, distributed, or sold during the 30 days prior to such proclamation, taking into account usual seasonal demand variations.

(b) DEFINITIONS.—As used in this section—

(1) the term ''wholesale'', with respect to sales of gasoline or other petroleum distillates, means either truckload or smaller sales of gasoline or petroleum distillates where title transfers at a product terminal or a refinery, and dealer tank wagon sales of gasoline or petroleum distillates priced on a delivered basis to retail outlets; and

(2) the term ''retail'', with respect to sales of gasoline or other petroleum distillates, includes all sales to end users such as motorists as well as all direct sales to other end users such as agriculture, industry, residential, and commercial consumers.

(c) CONSTRUCTION.—As described in this section, a sale of gasoline or other petroleum distillate does not include a transaction on a futures market.

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 gasoline and other 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 with actual knowledge or knowledge fairly implied on the basis of objective circumstances shall be subject to—

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

(B) a fine of not more than $3,000,000.

(2) METHOD.—The penalties provided by paragraph (1) shall be obtained in the same manner as civil penalties obtained 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 court shall take into consideration, among other factors, 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.

(a) IN GENERAL.—In addition to any penalty applicable under section 3, any person who violates section 2 shall be fined under title 18, United States Code—

(1) if a corporation, not to exceed $150,000,000; and

(2) if an individual not to exceed $2,000,000, or imprisoned for not more than 10 years, or both.

(b) ENFORCEMENT.—The criminal penalty provided by subsection (a) may be imposed only pursuant to a criminal action brought by the Attorney General or other officer of the Department of Justice.

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, involving a retail sale.

(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.

(c) AUTHORITY TO INTERVENE.—Upon receiving the notice required by subsection (b), the Federal Trade Commission may intervene in such civil action and upon intervening—

(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 exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer 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) 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 section 3 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 appropriations Acts, the 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.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. STUPAK) and the gentleman from Texas (Mr. BARTON) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. STUPAK. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and to include extraneous materials on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. STUPAK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the U.S. House of Representatives has an opportunity to vote on my legislation, the Federal Gas Price Gouging Prevention Act, H.R. 6346. Every Member of the House will face a simple choice: Vote to stand up for consumers, your constituents, who are paying outrageous gas prices at the pump, or vote to allow oil companies to go on setting them unchecked.

As of last night, the national average for a gallon of gasoline, regular gasoline, was $4.07. With rising prices, it makes sense that we vote on this legislation before the House leaves for the 4th of July holiday and millions of Americans fill their gas tanks and hit the road. Or even as we look forward to this winter, with home heating oil at $3.98 per gallon, it will be impossible for people to heat their homes this winter.

The high cost of energy produces more opportunities for multiple opportunities to have price gouging and price manipulation. Unfortunately, with these high prices, fewer families will be traveling this year, and that takes an especially hard toll on districts like mine that rely on tourism.

As I travel my vast northern Michigan congressional district, I have heard from everyone from clergy to farmers to seniors who are outraged by prices at the pump. They are shocked to learn that there is no Federal law against gas price gouging. Just as speculators are driving up prices on the global energy markets, unscrupulous wholesalers, retailers and refiners operate without the Federal oversight to ensure prices are fair and justified.

Twenty-nine States and the District of Columbia have put their own price gouging laws into place, but there is no uniform standard as to price gouging. Absent Federal action, Michigan Governor Jennifer Granholm is pushing State legislation that would give the Michigan Attorney General full authority to investigate price fixing and gas gouging at Michigan's gas pumps.

In Michigan, in fact, in my district, we have seen recent evidence of price gouging. An energy company of Kansas City, Missouri, opted to settle a class action suit brought under the Michigan's Consumer Protection Act in May over charges that they charged at least $1 above the State average over energy this year. I am pleased a deal was reached that will provide Michigan consumers with recourse, but I have a hard time believing this is an isolated case. If price gouging is occurring in my district, I have to believe it is not happening in other parts of the country and we need a uniform law to prevent it and enforce penalties on those who violate it.

Because there is no Federal law against price gouging, the Federal Trade Commission has never prosecuted a case of gas price gouging. Let me give you an example.

After Hurricane Katrina, the Federal Trade Commission at the request of Congress examined gas prices and found 23 percent of the refineries looked at, 9 percent of the wholesalers looked at and 25 percent of the retailers that were reviewed had increased prices that ''were not substantially attributed to increased costs'' and ''could not be attributed to national market trends.''

In other words, they were price gouging after Hurricane Katrina. Yet, the FTC was still powerless to act because there is no law against gas price gouging. I hope my colleagues in the other body will take action and join the House in passing this bill and work toward giving Federal agencies the tools to provide effective oversight of energy companies. There is no reason for my colleagues on either side the aisle to vote against my legislation.

Today, every House Member has a choice: Side with big oil companies who are making obscene profits, or side with the American consumer.

□ 1400

A vote against my bill is a vote against consumers and a vote for Big Oil. I am pleased to be joined by other Members and colleagues who are here to work very hard on this issue with me.

I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I rise in opposition to H.R. 6346. I know it is very similar to a bill that my friend introduced a year ago, and I think we even had a vote on the House floor a year ago on the bill, but there are some changes. Let me give the process argument against it, and then I will give the policy argument against it.

The process argument against it is a bill that is introduced on one day, is voted out of the House Floor the next day. That certainly shows a speedy government, but it doesn't show due process under the normal rules of the House of Representatives.

It would be good to have a legislative hearing on the bill and to have either a subcommittee and/or, and preferably or, a full committee markup. We have a number of bills right now that have been introduced on oil speculation in the futures markets. My friend, Mr. STUPAK of Michigan, has introduced a bill, I have introduced a bill. He and I and the chairman of the full committee, Mr. DINGELL, are on a bill together on that issue. We had an excellent oversight hearing yesterday that Chairman Stupak chaired. We have got a commitment from Chairman DINGELL that we are going to have a legislative hearing and go through regular order on the oil speculation bill. So we will have an oil speculation bill on the floor hopefully within the month that will have gone through the process, that will be bipartisan. This bill doesn't meet that test. It was introduced in its current form yesterday and we are voting on it on the floor today.

Now, as to the substance of the bill. Let me read into the record some information on prices. These are national average gasoline prices in the United States of America.

In 2006, the average retail price was $2.56 a gallon. This is the national retail price for self-serve unleaded gasoline. The average retail margin was 14 cents, and the average credit card fee was a little over 6 cents. Last year in 2007, the average retail price had gone up to $2.79. The average retail margin was still 14 cents, and the average credit card fee had gone up to 7 cents.

So far, for data that we have this year for calendar year 2008, the average retail price has jumped to $3.37. Now we know as a side note that as of today the average national retail price is a little over $4, I believe $4.07. The average retail margin has gone down to 12 cents, so we have lost 2 cents in retail margin, and the average credit card fee has gone up 8.4 cents.

So based on, such as there is, the definition of price gouging in this bill, which if you go over to page 3 of the bill, they don't directly have a definition of price gouging, but in the factors considered on page 3 of the bill it does speak about a price that grossly exceeds—we don't know what grossly means—grossly exceeds the average price at which the applicable gasoline or other petroleum distillate offered for sale during the 30 days prior to a proclamation, which is a presidential emergency proclamation, or grossly exceeds the price at which the same or similar gasoline or petroleum distillate was readily obtainable in the same period.

So to the extent we have a definition of price gouging in this bill, it is based on an average price 30 days prior or an average price in the same period.

Based on that kind of implicit definition, we don't have price gouging, as far as I can tell, going on in the United States of America today. We do have high prices. There is no question that an average national price of $4.08 a gallon for self-service unleaded is a price that we should not be having to pay right now. But the reason we have that price is not because of price gouging at retail. If the average national price is a little over $4, and that is the average, in some parts of the country I am told out in California it is up over $4.20. In my State in Texas, I did not see but I was told that in Dallas near Love Field they were having a gas price war and you could get a gallon for $3.62, which is a price that is certainly preferable to $4 or $4.50. But according to the statistics that I have, we don't have price gouging going on in the United States of America.

The second point. I am not aware of any pending State action on price gouging. And almost every State in the Union has State law that gives the State Attorney General the ability to go after price gougers within the boundaries of that State. Now, my friend from Michigan may have information about some price gouging efforts that are going on at the State level, but I don't have that information. That would indicate that we don't—again, we have high gasoline prices and high diesel prices and high fuel oil prices and high aviation fuel prices, but it is not because of retail or wholesale price gouging.

The second issue with the bill, it requires the declaration of a Presidential energy emergency. I am going to read that title or that paragraph:

The President may issue an energy emergency proclamation for any area within the jurisdiction of the United States during which the prohibition in paragraph 1 shall apply. The proclamation shall state the geographic area, the gasoline or other petroleum distillate covered, and the time period that such proclamation shall be in effect.

The bill doesn't give any definition as to why the President should declare an energy emergency, but it does say that, in order for the bill to go into effect, the President has to declare that emergency. It has the term in the bill unconscionable pricing, but again does not define it. It just says unconscionably excessive, or the seller is taking unfair advantage. It doesn't define that.

So here we have a bill that has not been through any kind of a process, no hearings. My good friend from Michigan did introduce a similar bill last year, and so it is obviously something that perhaps at the Federal level—and I say perhaps. I am not saying it should be, but I will admit that it could be addressed. We passed a price gouging bill in the last Congress in this body. It went to the other body, it went to the Senate, and was not passed over there.

So I can't say categorically that I am opposed to any price gouging legislation. But I do think, on process grounds, it ought to go through the committee system. And I think on policy grounds, this bill is undefined, it doesn't state the reasons the President should declare a national emergency, it doesn't define what unconscionably excessive is. It appears to base when you would bring a finding based on an average price that was it in a region 30 days before the current period or a price in the region in the current period that is grossly excessive. And, again, it doesn't define grossly excessive.

So Mr. Speaker, I know there is a lot of pressure on the Congress doing something. I would state we would be better served to look at the underlying fundamentals, and the underlying fundamental is pretty straightforward:

Oil is a fungible commodity. It can be produced anywhere in the world; and once it is produced, it can be shipped and refined anywhere in the world. We are currently consuming worldwide about 85 million barrels of petroleum products, and we have the capacity to produce about 86 million barrels. So we have about a 1 million barrel per day surplus production capacity. That is less than 1 percent.

Any time you get the oil markets less than 3 percent capacity in terms of surplus over the demand, you are going to have what is called a very tight market, and the prices are going to tend to spike because there is enough uncertainty in the market that people will bid up, not necessarily in the United States, but in China and India and the developing countries where demand is high and increasing, they will bid these high prices to get that marginal barrel of oil.

What we need to do in this Congress on this floor is bring to the floor bills that address the fundamental supply situation. The United States of America is a treasure house of energy resources. We have 2 trillion barrels of shale oil reserves. We have a 300-year supply of coal that we can convert to liquids. We have hundreds of billions of barrels potentially of oil reserves that are off-limits in the Outer Continental Shelf and in the State of Alaska and on the Federal lands and the lower 48 that we have put off-limits from drilling.

Only 6 percent of the Federal lands in the United States have been made available for leasing under current law. We need to unlock our treasure house. We need to at least start the process of letting there be an opportunity to increase American made energy for America's families. And if we do that, we won't need to depend on false remedies like price gouging legislation. We can bring to the floor bills that increase our supply. And as our supply increases, the price we have to pay will go down, will change domestically and in the world the fundamental supply/demand equation. That is why we have high prices. We are not meeting the demand for energy in the United States from American-made energy, but we could do a lot better.

So I have great respect for my friend from Michigan. I understand it is difficult to focus on the long term in the mid-term strategy. But bringing bills like this to the floor, they may be politically satisfying, but they do not do anything to address the underlying problems. So I would hope that we would vote against this legislation, and then work together on substantive issues that will address the supply and demand inequality.

Mr. Speaker, I reserve the balance of my time.

Mr. STUPAK. Mr. Speaker, before I yield to Mr. MARKEY of Massachusetts, if I may just respond a little bit to my good friend, Mr. BARTON.

I agree with him, we need to have a short-term and long-term strategy. And as the former chairman of the Energy and Commerce Committee, my friend Mr. BARTON knows that this is my third bill we have had on price gouging. And the reason why we have it is short term, like in Midland in 2005 where gas went up 75 cents in one day, that is price gouging. Or in Escanaba, you wake up and it is 30 cents in one night. What happened in that one night? Or if you take a look at it, the reason why we need a Federal law, because as we see in the bill it is wholesale. So when refineries increase their prices 255 percent from September 2005 to September 2006, for a State like mine to enforce a price gouging legislation we need a Federal law to help them out.

And the Presidential emergency the gentleman brought up; we need that because, as you know, before Hurricane Katrina gas went up over $5 a gallon before the hurricane even struck. Therefore, you need a President who can step forward and say that is excessive, that is not necessary in this region, we will keep gas prices at a reasonable price.

As far as the millions of acres and the drilling that should be done, and I know the Republican Party has been advocating we should drill more and drill more and drill more, but I would remind the gentleman that for the last 6 years, when the Republican Party controlled the House, the Senate, and the Presidency, you never sought to open up those areas now, because there is about 48 million acres of oil leases unused. I hope later this week we will have a chance to vote on a piece of legislation called Use It Or Lose It. It is unfair for oil companies to tie up our areas and refuse to drill in it when they have leases on it. So if you don't use that lease, let's give it up to someone who will drill, who will bring the oil to the surface, and therefore we can help to address our energy needs.

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I rise in strong support of this legislation. And I want to commend especially the gentleman from Michigan (Mr. STUPAK) for his historic leadership in bringing this bill to the floor.

Time and again, the opponents of Mr. STUPAK's measure have exhorted us not to interfere with the free market, not to let the Federal Government help consumers in the face of price gouging.

□ 1415

Even as gas prices have sped past $4 a gallon, it is all just a matter of supply and demand, say the oil companies and Republican leaders in Washington. Well, it is a matter of supply and demand: consumers are being forced to supply whatever money the oil companies demand from them at the pump.

The oil companies have the consumer over a barrel, a barrel of oil, that the oil companies control and that they price. They tip the consumer upside down at the pump every single day and shake every bit of money out of their pockets, which they can.

The Christians had a better chance against the lions than the American consumer has against the oil companies at the pumps in the United States today. And all we are saying, all Mr. STUPAK is saying is let's give the Federal Government a sword to get into the battle, to get into the arena on behalf of the American consumer.

The bill before us today would give the Federal Trade Commission new authority to investigate and punish the wholesale or retail sale of gasoline or other petroleum distillates at prices that are unconscionably excessive, or take unfair advantage of consumers during any Presidentially declared national or regional energy emergency.

The Republicans think that is terrible. Why would you pass a law against unconscionably excessive or unfair practices that are tipping the consumers upside down. Don't give the Federal Government that kind of authority to take on the oil and gas industry. And President Bush and Dick Cheney, the oil President and Vice President for 8 years, are saying that they will veto legislation that gives authority to go after excessive, unconscionable pricing of gasoline.

Under the bill, the Justice Department could impose criminal penalties of up to $150 million on corporations, and fines of up to $2 million and jail sentences of up to 10 years for individuals. The legislation would give the regulators the tools they need to more aggressively aid consumers when the oil companies are turning them upside down.

When President Bush took office, the price of oil was $30 a barrel. A couple of years ago, oil at $100 a barrel was unthinkable. Now we are up to $135 a barrel.

So the first energy crisis back in 1973–1974, it was an oil embargo; 1979–1980, a revolution in Iran. What has been going on for the last year? How could the price of oil double and everyone says it is not a crisis in the White House. How about manipulation. How about fraud. How about the consumer being taken advantage of at the pump.

I thank the gentleman for his good leadership.

Mr. BARTON of Texas. I would like my good friend, Mr. MARKEY, to stay at the microphone and let's have a little colloquy, if he is willing.

I recognize myself for 1 minute just to make an observation.

I don't know, Mr. Speaker, that this is a totally true story, so that's why I needed Mr. MARKEY's input. But I am told when he was a young man, he sold ice cream cones and Popsicles outside of Fenway Park. I am also told that he bought or purchased those ice cream cones and Popsicles at a very low price, and he tended to mark the price to market in a somewhat monopolistic fashion. And so depending on how hot the day was and how heated the Red Sox nation was, he was known to price those Popsicles in a way that maximized his profit.

Now my question, if he is willing to answer it, would he consider what he did selling Popsicles and ice cream cones outside of Fenway Park as a young lad, would he consider that unconscionably excessive price gouging, or would he consider that simply being a capitalistic entrepreneur?

The SPEAKER pro tempore (Mr. BLUMENAUER). The gentleman's time has expired.

Mr. BARTON of Texas. I continue to yield myself such time as I may consume.

I am happy to yield to my friend to give us an explanation of his pricing scheme selling ice cream cones at Fenway Park.

Mr. MARKEY. I hate to say this because there is a bit of the capitalist, the unregulated capitalist in all of us. But when I had my Fudgsicles, my chocolate eclairs, my strawberry shortcakes, my twin fudges, and Mr. Softie wasn't coming down the same street, there is a tendency to try to raise the price because there is no one else in the market and there is no regulator going up and down those streets. And if you are outside Fenway Park and there are 35,000 fans coming out and there is no regulator around to say what you can charge as an audience is coming toward you in desperate need of a Popsicle, of a Fudgsicle or a Coke, you have a tendency without a regulator to charge unconscionably high prices.

Now at the time, I didn't think of it that way because, of course, the capitalist never thinks that way. That is why you need regulators to protect consumers against anyone who is selling any product in the marketplace. And that's the lesson I learned.

And I decided early, I was not going to do that any longer, I was going to move over to the regulatory side to protect consumers against human nature that sometimes can affect certain corporate chieftains, especially in the oil industry, to tip consumers upside down and take advantage of them.

Mr. BARTON of Texas. Reclaiming my time, it seems to me that given the circumlocutory answer that I got from my friend from Massachusetts, that he did tend to price somewhat above the market, and he seems to at the time take glee in it.

Mr. MARKEY. I feel guilty about. I feel very guilty about it.

Mr. BARTON of Texas. The statute of limitations under the Commonwealth of Massachusetts has expired.

Mr. Speaker, if it is still my time, I want to yield 3 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. I thank the gentleman for yielding, and I certainly regret I didn't have an opportunity to negotiate a Popsicle with the gentleman from Massachusetts. I am sure that would have been an interesting experience; about as interesting as this experience is in debating a bill which I feel has a lot to do with feel-good politics, a bill that is particularly unworkable, I fear may lead to de facto price controls, and really takes our attention off of the challenge that we face, and that is to increase American production of American energy.

As much as Members of Congress might like to do it, in over 200 years I have yet to see the ability to repeal the laws of supply and demand. And so again, I am sure the gentleman from Michigan is very sincere, and I know that he has worked on similar legislation for quite some time, but when we talk about price gouging and an emergency situation, what are we doing to bring down the price of gas at the pump today.

Instead, we have a piece of legislation that is going to allow Federal regulators, bureaucrats that according to the gentleman from Massachusetts, appear to be the savior of the Nation, to tell us what is, quote, ''unconscionably excessive,'' and ''taking unfair advantage'' related to ''an energy emergency to increase prices unreasonably.'' So now we are going to have a Federal bureau come in and tell us what are reasonable prices and reasonable situations.

The FTC, the Federal Trade Commission, after Katrina researched this issue. They could find very little evidence of it. We have unconscionably high gas prices in America, but it has everything to do with a Congress that wants to put its head in the sand and produce no energy.

Our friends from the other side of the aisle, the Democrats, since taking over the energy policy of the Nation, since taking over the economic policy of the Nation 18 months ago, have overseen gas prices that are now 75 percent higher. They have attempted to beg their way, beg OPEC to somehow produce more and bring down the cost of energy. Well, if we can't beg them, maybe we should sue them. We have had legislation to sue OPEC. We are going to sue for lower prices at the pump.

Well, if that doesn't work, maybe we can tax. Let's tax oil producers. Well, Mr. Speaker, the only challenge with that is once you tax them, they turn around and put it in the price of the product, and the poor, beleaguered consumer who is going to the convenience store trying to decide do I buy a gallon of milk or do I buy a gallon of gas, he ends up paying for it. I mean, these are policies that are out of the 1970s. President Carter and a Democrat Congress tried them; they failed. We became more dependent using these types of policies on foreign sources of energy.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. BARTON of Texas. I yield the gentleman an additional 30 seconds.

Mr. HENSARLING. We have tried these policies. It is deja vu all over again. What our friends on the other side of the aisle won't do is open up ANWR where we know we have half of the Nation's proven reserves. Almost 85 percent of our deep sea energy resources have been put out of bounds.

Listen, we all agree, we need to develop renewables. We need to develop alternative sources of energy, but people have to go to work every day and take the children to school every day. This bill does nothing to help them. We need to produce American energy in America today.

Mr. STUPAK. I yield 2 minutes to the gentleman from northern New York (Mr. HALL) who has been a real advocate and a fighter for lower energy costs since he came to Congress 18 months ago.

Mr. HALL of New York. Mr. Speaker, in my district, my constituents are complaining and wondering why one day a gas tanker pulls up to a service station and fills a tank underground at the price of that day, and 2 days later the world price of crude oil goes up and the guy at the local gas station goes up on a ladder and changes the numbers, raising the numbers from $4.17 to $4.29, or whatever it is currently in the 19th Congressional District. We are well above $4 for regular. Why is it that gas that is already in the ground goes up on the world price of crude, but when the world price of crude comes down, the price at the pump detaches from it and keeps going up or staying up?

They ask me this question, and I ask people down here who supposedly know what they are talking about, and they tell me: Oh, it's a commodity. It fluctuates on the commodity market.

Well, I call it the rockets-and-feathers syndrome. The price of gas goes up like a rocket, and it comes down like a feather. And it never seems to deviate from that. While American families are scrimping, oil company profits are soaring. The Big Five's profits jumped a whooping $37 billion this quarter.

After the Bush administration's drill first and ask questions later policy has padded oil profits on the backs of working families, it is time for us here to look out for American drivers.

The Federal Energy Price Gouging Prevention Act, which I strongly support, will give the government the authority to investigate and punish anyone who takes advantage of consumers by running up energy costs with a steep fine and jail time.

After Hurricane Katrina, the FTC found 23 percent of refineries, 9 percent of wholesalers, and 23 percent of retailers had price spikes that could not be explained by increased costs or market trends.

We need to be aggressively vigilant to ensure that none of that behavior is going on and consumers are protected. President Bush threatened to veto this bill the last time Congress tried to take this action. I hope that this time he and his allies will for once choose to stand with the American driver and against Big Oil.

Mr. BARTON of Texas. Mr. Speaker, could I inquire as to the time remaining on each side.

The SPEAKER pro tempore. The gentleman from Texas has 2 minutes remaining. The gentleman from Michigan has 9½ minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I reserve the balance of my time because I only have one more speaker who is not on the floor.

Mr. STUPAK. Mr. Speaker, it is my pleasure to yield to the gentleman from New York (Mr. ARCURI), a freshman Member who has been a great advocate for increased energy, not only supply but lower prices here in this country, for 2 minutes.

Mr. ARCURI. I thank the gentleman from Michigan for yielding.

Mr. Speaker, traveling across my district, there is one thing I hear about again and again, and that is gas prices. Whether it is at the grocery store or at the gas pumps, Americans are feeling the crunch. Skyrocketing gas prices are hitting hardworking families across my upstate New York district and across the country.

Today, we will take one more step to bring down gas prices by cracking down on price gouging by big oil companies. The Energy Price Gouging Prevention Act would provide relief for consumers by giving the Federal Trade Commission the authority to investigate and punish companies that artificially inflate the price of energy.

The largest oil companies have seen record profits and record paychecks for their CEOs, while middle-class families struggle just to fill up their tank. It is time to hold them accountable.

Under this bill, the Justice Department could impose criminal penalties of up to $150 million on corporations and jail sentences of up to 10 years to crack down on wholesale and retail companies charging unconscionable and excessive prices. Penalties from price gougers would go to the Low-Income Home Energy Assistance Program, LIHEAP, to help families with heating and air conditioning bills. Already this Congress has fought to increase domestic oil supply and hold OPEC and speculators accountable for price manipulations.

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We have invested in new alternative energy sources that will decrease our dependency on finite fossil fuels and create good-paying jobs in places like Upstate New York.

Mr. Speaker, we owe it to our constituents and to our children and grandchildren to do everything we can to bring down outrageous gas prices, put our economy back on track and make sure that this country is on a new path to energy independence and success.

Mr. BARTON of Texas. Mr. Speaker, I continue to reserve.

Mr. STUPAK. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PASCRELL) who sits on the Ways and Means Committee and knows the ins and outs of the oil industry.

Mr. PASCRELL. Mr. Speaker, I'm proud to rise in support of H.R. 6346, the Federal Price Gouging Prevention Act. And I want to commend the gentleman from Michigan not only for this legislation but other legislation he's put forward debunking the theory that this is simply a supply-and-demand problem. It is not. It is not.

The New York Mercantile Exchange laid it out very clearly. The speculators have increased their share of oil futures, oil future contracts to 71 percent this year from 37 percent in 2000.

At the same time, the contracts held by traditional oil users have fallen to less than 30 percent from more than 60 percent. So while this piece of legislation talks about gouging at the pump, there is gouging going on Wall Street; and if you don't want to recognize it, that's your problem. The American people want answers.

In these tough economic times, price gouging is a very real problem for Americans struggling to get to work. How about that for openers. As prices climb, so does the potential for consumers to be gouged at the pump. Now, it's $4.07 a gallon; when the President took office in January of 2001, $1.36. That's a 270 percent increase. The food becomes more expensive, millions of Americans lose their jobs.

It is shameful that unscrupulous vendors try to make a quick buck by artificially inflating the price. Just last week, officials in my home State of New Jersey issued 350 citations for price gouging-related offenses after surveying 1,000 gas stations. 350 citations. Where is the urgency? If you don't understand the urgency, then we ought to go back to 101.

H.R. 6346 will ensure that those who engage in this practice are not only investigated and found guilty, thoroughly punished, just like what we should do to those on Wall Street who gouge those prices who have speculated and speculated and got us to believe at a time when consumption and supply is just about the same as last year. That's ridiculous.

This bill directs penalties from price gougers to the Low-Income Home Energy Assistance Program to help families with their heating and their air-conditioning bills. Twenty-eight States, Mr. Speaker, have anti-price gouging laws on the books. And it's time for the Federal Government to do exactly the same thing.

I urge my colleagues to support Mr. STUPAK in his efforts and to support the Federal Price Gouging Prevention Act.

And I don't sit until I say, Mr. STUPAK, the American people say thank you to you.

Mr. BARTON of Texas. I continue to reserve.

Mr. STUPAK. Mr. Speaker, I think we have the right to close on this side. So I would ask for their last speaker, and we will close on this side.

Mr. BARTON of Texas. Well, Mr. Speaker, let me just simply say in closing that with regards to the last speaker's comment about the futures market, I tend to agree there may be something that we need to look at. That's why I'm on a bill with Mr. STUPAK and Mr. DINGELL to look at the futures market. But on page 3 of this bill, there is a line that specifically excludes the futures market from the jurisdiction of the bill that's before us.

We have a Federal price gouging bill on the floor right now that deals with retail and wholesale price gouging when there is absolutely no evidence of States' attorneys general conducting prosecutions of price gouging anywhere in this country. And as I pointed out in my opening statement, the average retail price for gasoline is up while retail margins are down, refineries margins are down.

Retail prices are up because the wholesale price of crude oil is up over $130 a barrel. We're not doing anything in this bill to address that fundamental supply problem. We are a treasure house of energy resources here in the United States. We could produce more American energy for America's families and factories.

You know, a price gouging bill when you don't have any real evidence of price gouging and where the States that think there's price gouging going on in their States have legislation to deal with that seems to me to be superfluous and symbolic.

So I would ask for a ''no'' vote on this legislation, and let's work together on issues that would fundamentally address the supply and balance and bring prices down.

With that, I yield back.

Mr. STUPAK. Mr. Speaker, in closing, let me just once again reiterate today every Member of the House has a choice. He can side with the big oil companies and the record profits, or you can side with the American consumer. A vote against my bill is a vote against consumers and a vote for Big Oil.

I am pleased so many of my Democratic Members came and joined me. This legislation is necessary. As I said, this is the third time I have had legislation on price gouging. As I pointed out earlier, this winter we experienced price gouging for energy needs, it was a dollar more than the rest of the region in Michigan and the area was being charged. The attorney general in Michigan, because we don't have a price gouging law, had nowhere to go.

Here's the bill that the Michigan legislature—House bill 6249—just introduced 2 weeks ago, tried new price gouging because we see it going on and on and on; and it's going to continue as we see these record prices and further chances to manipulate the market and to charge excessive prices to support these excessive profits of the oil companies.

Underneath the Democratic House, and I feel I have to say this, we have done a number of things in the last 18 months: Renewable Energy and Jobs Creation Act, which extends tax incentives for renewable energy. We had the Gas Price Relief for Consumers Act, which combats record gas prices. We have the energy price gouging bill we're doing today. We put forth the first new vehicle fuel efficiency standards in 32 years. We have a commitment to affordable American-grown biofuels which are keeping gas prices down. They are lower now than what they would have been if we did not pass this legislation. Action for lower gas prices by suspending oil purchases for the Strategic Petroleum Reserve. Later, hopefully the next month or two, we will see the bill on speculation that Mr. BARTON has mentioned. That is a piece of legislation we're looking at for excessive speculation which is driving up record profits for the price of oil.

But in this Democratic-led Congress, we will continue to invest in clean American renewable energy. We will boost energy technologies. We will help Americans struggling with the high energy prices. We will reward conservation. We will promote efficient vehicles, we will reduce mass transit fares and build infrastructure. We will further close the Enron loophole and speculators in dark petroleum markets which is driving up prices. We will encourage safe domestic drilling by forcing Big Oil to use it or lose it on Federal drilling permits.

I am perplexed that there's 68 million acres that we are not even drilling on because the oil companies have them tied up in leases. And what we are saying is if you're not going to drill to help the American people, then give up your lease. Let's give it to oil companies that at least drill. Democrats aren't against drilling. Let's at least go in these leases, which have been approved, environmentally sound, let's drill, let's bring that energy to the surface. If you're not going to use it, then we're going to pass legislation to say you lose it.

And last but not least, Democrats are leading the way to transition America to a more affordable energy future. But right now, as we go fill up this 4th of July weekend as we travel our parades in our districts and enjoy the summer months, can't we at least make sure that the price we're paying at the pump is based on a reasonable basis, reasonable factor, reasonable cost for taking that oil out of the ground, for shipping it, for refining it, for distributing it and putting it in your gas pump? We should not have to worry about being gouged tomorrow. We should not wake up on July 3 and find that gas went up 40 cents overnight for no reason other than someone needs a few more pennies to pay for their 4th of July. I don't want to pay for the big oil companies' 4th of July. I want the American people to enjoy this 4th of July and to know when they fill up at the pump, it's based on a fair, reasonable price.

Let's finally pass, after some 3 years of arguments on this floor, a Federal price gouging legislation that the other body will take up and we can present to the President. Let's have a reasonable basis for our pricing, and let's try to give the American people some relief from these high excessive energy prices we are experiencing.

Mr. HOLT. Madam Speaker, I rise today in support of H.R. 6346, The Federal Energy Price Gouging Prevention Act.

Today, my constituents in Central New Jersey are paying on average $3.98 at the pump, over a dollar more than they were paying at the beginning of the year. Increases in gas prices have affected every sector of the economy. We are paying $2 more whenever we get a pizza delivered, $10 more for lawn mowing services, $1.70 for shipping packages, an extra penny for every letter that we send, and these are just a few examples of the effects of gas price increases on the economy at large. As American families suffer, oil companies continue to rake in record profits. It is essential that we prevent price gouging, speculation, and profiteering by those who would take advantage of our energy predicament and guard against harm to commuters and struggling families.

Current law does not have a mechanism for allowing the investigation and punishment of individuals and corporations that are artificially inflating the price of energy. H.R. 6346 would grant the Federal Trade Commission the authority to investigate and punish those who engage in price gouging. H.R. 6346 would finally provide a clear definition of price gouging so that the FTC can prosecute the worst offenders, specifically those companies with more than $500,000,000 in sales per year. It would strengthen the criminal penalties for price gouging to up to $150 million for corporations, and fines of up to $2 million plus jail sentences of up to 10 years for individuals. Finally, it would redirect the fines assessed to help fund the Low Income Home Energy Assistance Program (LIHEAP).

Unfortunately, we are seeing examples across the country of unscrupulous individuals taking advantage of consumers during this energy emergency. Last week, New Jersey's Attorney General Anne Milgram released the results of an investigation that uncovered over 350 ticket worthy instances of gasoline price manipulation after a survey of 1,000 gas stations in the state. Among the citations issued were: 62 violations for the pump not accurately measuring fuel, 46 violations for per-gallon prices being different on each side of the pump, 37 violations for fuel grades not posted, 26 violations for inaccurate octane ratings, 19 violations for inaccurate total sale price calculation and 14 violations for multiple price changes in a 24-hour period. States like New Jersey are already taking action to prosecute gas price manipulation on a small scale; however, they do not have the means necessary to prosecute large-scale offenders. It is past time that Congress gives the FTC the tools it needs protect American consumers from these egregious violations at the pump and the legislation before us today takes an important first step towards achieving this goal.

Passing H.R. 6346 would help to prevent price gouging and I urge my colleagues to support this legislation. However this bill is merely a short term solution to our long term energy needs. There are no easy answers to the fluctuating gas prices. We are paying at the pump today for flawed decisions made years ago. That is why we must work to implement strategies that will lower demand for oil in the long term.

Mr. STUPAK. Mr. Speaker, I yield back my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. STUPAK) that the House suspend the rules and pass the bill, H.R. 6346, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. STUPAK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SENSE OF CONGRESS REGARDING DANDY-WALKER SYNDROME AND HYDROCEPHALUS

Ms. HOOLEY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 163) expressing the sense of Congress in support of further research and activities to increase public awareness, professional education, diagnosis, and treatment of Dandy-Walker syndrome and hydrocephalus, as amended.

The Clerk read the title of the concurrent resolution.

The text of the concurrent resolution is as follows:

H. CON. RES. 163

Whereas Dandy-Walker syndrome is the most common congenital malformation of the cerebellum and its causes are largely unknown;

Whereas between 10,000 and 40,000 people have Dandy-Walker syndrome in the United States;

Whereas the incidence of Dandy-Walker syndrome is at least 1 case per every 25,000 to 35,000 live births, however this is likely a significant underestimate because of difficulties diagnosing the syndrome;

Whereas the Metropolitan Atlanta Congenital Defects Program, Centers for Disease Control and Prevention reports that Dandy-Walker syndrome may affect as many as 1 in 5000 live born infants;

Whereas approximately 70 to 90 percent of patients with Dandy-Walker syndrome have hydrocephalus;

Whereas Dandy-Walker syndrome accounts for approximately 1 to 4 percent of hydrocephalus cases;

Whereas patients with Dandy-Walker syndrome present with developmental delay, enlarged head circumference, or signs and symptoms of hydrocephalus;

Whereas Dandy-Walker syndrome affects males and females approximately equally;

Whereas seizures occur in 15 to 30 percent of patients with Dandy-Walker syndrome;

Whereas subnormal intelligence is manifested in 41 to 71 percent of patients with Dandy-Walker syndrome;

Whereas failure to diagnose Dandy-Walker syndrome with hydrocephalus in a neonate or a child can cause serious neurologic complications;

Whereas Dandy-Walker syndrome is named after former University of New Mexico neurosurgeon and professor Arthur E. Walker (1907–1995) and Walter E. Dandy (1883–1941), who first described the disorder in 1914; and

Whereas there are 2 known researchers dedicated to Dandy-Walker Syndrome in the United States and additional investigators are needed: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) Congress commends the Director of the National Institutes of Health for working with leading scientists and researchers to organize the first National Institutes of Health conference on hydrocephalus in September 2005 and the Inaugural ''Cerebellar Development: Bench to Bedside International Conference'' in November 2006; and

(2) it is the sense of Congress that—

(A) the Director of the National Institutes of Health should continue the current collaboration, with respect to Dandy-Walker syndrome, among the National Human Genome Research Institute, the National Institute of Biomedical Imaging and Bioengineering, the National Institute of Child Health and Human Development, the National Institute of Neurological Disorders and Stroke, and the Office of Rare Diseases;

(B) further research into the epidemiology, diagnosis, pathophysiology, disease burden, and improved treatment of Dandy-Walker syndrome and hydrocephalus should be conducted and supported; and

(C) public awareness and professional education regarding Dandy-Walker research should increase through partnerships between the Federal Government and patient advocacy organizations, such as the Dandy-Walker Alliance and the Hydrocephalus Association.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Oregon (Ms. HOOLEY) and the gentleman from Nebraska (Mr. TERRY) each will control 20 minutes.

The Chair recognizes the gentlewoman from Oregon.

GENERAL LEAVE

Ms. HOOLEY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

Ms. HOOLEY. Mr. Speaker, I yield myself as much time as I may consume.

I rise in support of H. Con. Res. 163 which supports continued research to increase public awareness, professional education, diagnosis, and treatment of Dandy-Walker Syndrome and hydrocephalus.

Dandy-Walker Syndrome is a congenital brain malformation that affects the cerebellum and the fluid spaces around it. Symptoms often develop early in infancy robbing children of their future potential just as their lives are beginning. Its causes are largely unknown, but what is known is that it can have a devastating impact on a child. A baby with Dandy-Walker Syndrome may experience developmental delays, enlarged head size, and severely reduced intellectual capabilities.

Dandy-Walker Syndrome was discovered almost 100 years ago in 1914 by former University of New Mexico neurosurgeon and professor Arthur E. Walker and Dr. Walter E. Dandy. A cure for the disease remains elusive.

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The resolution before us supports the continuing research collaboration into Dandy-Walker syndrome. It recognizes the work of the National Institutes of Health with the National Human Genome Institute, the National Institute