

leader in health care provision in our country. I urge my colleagues to join with me in supporting this legislation.

INTRODUCTION OF THE DISCOUNT  
PRICING CONSUMER PROTECTION  
ACT OF 2009

**HON. HENRY C. "HANK" JOHNSON, JR.**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 13, 2009*

Mr. JOHNSON of Georgia. Madam Speaker, today I am pleased to introduce the Discount Pricing Consumer Protection Act of 2009. I am joined in my efforts by the honorable Chairman of the Judiciary Committee, Representative JOHN CONYERS of Michigan.

The purpose of this bill is to undo the harm to consumers posed by the Supreme Court's 2007 decision in *Leegin Creative Leather Products, Inc. v. PSKS, Inc.* In *Leegin*, the Supreme Court overturned 95 years of antitrust jurisprudence by reversing its 1911 decision in *Dr. Miles Med. Co. v. John D. Park & Sons, Co.*, which had expressly prohibited agreements between manufacturers and distributors on a minimum retail price for their products. Under the precedent set by *Leegin*, manufacturers are free to pursue this type of anti-competitive price fixing. This bill would negate the *Leegin* decision by making any such agreements a violation of Section 1 of the Sherman Act.

The philosophical foundation of our nation's antitrust policies is simple: competition benefits consumers. When competitors have no choice but to compete aggressively with one another, it is the customer who benefits from lower prices, better service, increased variety, etc.

The *Leegin* decision runs contrary to that philosophy. Consumers do not benefit from price fixing. In his dissent in *Leegin*, Justice Breyer writes that even if only 10 percent of manufacturers implement minimum price fixing policies, the average annual shopping bill for a family of four would increase by between \$750 and \$1000 annually. In this time of economic hardship, preserving competition and delivering value to consumers is as important as it has ever been.

Retail price competition is essential to promoting this country's culture of entrepreneurship. Small businesses often get their start by offering consumers something they're not getting from more established retailers. In the Internet space, this frequently involves selling goods available in retail locations at lower prices. Here again, where there is competition among retailers, the consumer wins.

The *Leegin* decision undermines retail competition by making it possible to set a floor price on goods sold in every conceivable outlet. Thus, the retailer who operates with lower overhead or a better cost structure is prevented from passing those cost savings on to consumers. The Supreme Court decision gives manufacturers the cover to strong-arm discount merchants into sustaining artificially high retail prices. True, the *Leegin* decision doesn't make every such agreement legal; it simply removes the prohibition that made any such agreement illegal on its face. But, as practicing antitrust attorneys will tell you, the enormous evidentiary burdens that a plaintiff

faces post-*Leegin* makes litigating such cases cost-prohibitive. The real-world effect, then, of *Leegin* is to make such agreements legal.

The benefits of the *Leegin* decision are dubious. Supporters claim that the decision prevents the "free riding" problem, in which customers do their research at higher-priced bricks-and-mortar outlets but then purchase the product at a lower-priced online retailer. In this manner, the bricks-and-mortar outlet, which invested in the customer service, is denied the benefit of the sale; the online retailer thus "free rides" off of its competitor. But I question this presumption. My children will search out all of the information they can find on high-priced gadgets before going to a store to check them out. Sometimes they buy them on the spot if they don't want to wait for shipping. Which begs the question: who is free-riding off of whom?

A second argument that crops up frequently is that minimum retail prices benefit new entrants. This is so reasonable-sounding that even supporters of the *Dr. Miles* decision will acknowledge it somewhat apologetically as an exception. But for the 95 years that *Dr. Miles* controlled, we saw innovation and new entry in every industry. Supporters of *Leegin* say that minimum retail prices give big retailers the security they need to take a chance on promoting a new product. But many of these concerns can be addressed contractually, in the form of contracts for services, contracts for buybacks, etc. There is no need to overturn settled antitrust law to accomplish indirectly what may be contracted for directly.

The harms of minimum retail price fixing are real and proven. In 1937, Congress passed the Miller-Tydings Act to shield from the federal antitrust laws so-called state "fair trade" laws that permitted manufacturers to set minimum retail prices for their goods. The results were bad for competition and bad for consumers. Studies conducted by the DOJ found that minimum retail price fixing on average increased prices for the affected goods by between 18 and 27 percent, and that elimination of the practice would save consumers \$1.2 billion. Congress responded by overturning Miller-Tydings with the passage of the Consumer Goods Pricing Act of 1975. In doing so, Congress examined and rejected various justifications for minimum retail price fixing, finding that the practice served little purpose other than to raise prices for consumers.

The bill I introduce today takes a stand for the consumer. It challenges manufacturers to remain innovative and aggressive, and not rely on side agreements with retailers to guarantee their own profits at the expense of a working family's paycheck. The federal antitrust laws are not an administrative inconvenience, to be done away with when threatened by the challenges of the free market. They are the greatest protection consumers have against the dangers that corporate greed, left unchecked, can pose.

AMERICAN CLEAN ENERGY AND  
SECURITY ACT OF 2009

SPEECH OF

**HON. PHIL HARE**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 26, 2009*

Mr. HARE. Madam Speaker, I rise today in support of H.R. 2454, the American Clean En-

ergy and Security (ACES) Act. While this bill is far from perfect, it truly is the result of multi-region and multi-industry compromise, and I believe it will go a long way toward reducing our nation's carbon footprint.

I commend Energy and Commerce Committee Chairman HENRY WAXMAN and Energy and Environment Subcommittee Chairman EDWARD MARKEY for their efforts in putting together this comprehensive, global climate change legislation. I also commend my friend from Virginia, Representative RICK BOUCHER, for working tirelessly to ensure that coal-producing and coal-consuming states, like my home state of Illinois, can transition to renewable resources in a realistic timeframe.

One of the strongest assets of the ACES Act is its potential to significantly expand the green jobs sector all across America, creating millions of good-paying jobs that cannot be outsourced. Through federal investment in the production of biofuels and manufacture of wind turbines, among other renewable energy technologies and equipment, it is estimated that 3,700 new jobs will be created as a result of this bill in my congressional district alone.

Additionally, the ACES Act protects consumers from steep hikes in utility rates. I am pleased to see that the revenue gained from the allowance process in the bill would partially go toward those Americans most vulnerable to increases in their electric bills. With five separate programs to protect ratepayers from rising costs for natural gas and heating oil, I have full confidence that the residents of West Central Illinois will not experience significant hikes in their utility bills as a result of this legislation. In fact, the non-partisan Congressional Budget Office estimates that for the average household, costs from the ACES legislation would only be about 39 cents per day—less than the cost of a postage stamp.

I also appreciate that the bill takes into consideration rural agricultural districts like mine. By broadening the definition of "renewable biomass," allowing the Department of Agriculture to oversee carbon-offset projects in rural areas, and not including carbon emissions from indirect-land use, this bill would allow the ethanol makers, food producers, and agricultural equipment manufacturers to continue doing what they do best, while reducing greenhouse gas emissions at the same time. While I would have preferred to have seen in the bill a portion of the pollution allowances go to the food-processing agri-business sector, in addition to allocating "early action credit" allowances to those companies who have already taken voluntary greening measures to reduce their greenhouse gas emissions, I will vote in favor of this bill with the hope that these concerns will be addressed by the Senate or during conference committee.

As a comprehensive energy bill, the ACES Act also provides for the expansion of new nuclear generating units, and gives bonus allowances to those fossil-fuel units taking advantage of on-site carbon capture and sequestration (CCS) technologies. I am pleased that the bill invests approximately \$60 billion in CCS, the next generation of clean-coal technology which reduces harmful emissions by capturing and storing them, thereby preventing them from reaching the atmosphere.

Rural Electric Cooperatives provide much of the power to my constituents. As such, I am happy that the ACES legislation allocates a portion of the total free emission allowances to

rural co-ops. This important provision equitably distributes free allowances between Midwestern states and coastal states, as well as prevents excessive increases in energy costs for my constituents.

Finally, I would like to thank my friends from Iowa, Representatives LEONARD BOSWELL and BRUCE BRALEY, for working to include a provision which adds renewable fuel pipelines to the list of projects eligible for the Department of Energy Loan Guarantee Program. As the representative of a district that produces corn ethanol, biodiesel, and other biofuels, the creation of renewable fuel pipelines would create thousands of local jobs and guarantee efficient and affordable transportation of Midwest energy to the parts of the U.S. which consume the most fuels.

The American Clean Energy and Security Act is broad in scope, focusing on necessary improvements in clean energy and energy efficiency. I hope my colleagues realize that the cost of inaction will be much, much greater if the United States fails to enact a bill that reforms our energy and environmental policies. I encourage its fast passage as it will create millions of jobs, stimulate our economy, and protect our environment.

SALUTING THE NEW YORK DAILY NEWS, AND THE WINNERS OF THE DEAR LADY LIBERTY ESSAY CONTEST

**HON. ANTHONY D. WEINER**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 13, 2009*

Mr. WEINER. Madam Speaker, I rise to recognize the accomplishments of five young people who demonstrate the best of our Nation's values. This not only includes understanding what it means to be a patriotic American, but also understanding what it means to keep a connection with your parents, your grandparents and your great grandparents.

I want to thank these exceptional New Yorkers for taking the time to submit their essays and for understanding what it means to celebrate our country and to celebrate the Statue of Liberty. As the first public visitors to walk up the steps to the crown the Statue of Liberty since September 11th, 2001, I asked these young essayists to try and remember the millions of new Americans that came by that beautiful Lady and what it meant for them.

The Statue of Liberty is more than just a tourist site, it is something that connects us with our immigrant tradition. It is one of those symbols that unify us as Americans. We often are drawn to focusing on our weaknesses, our foibles and our conflicts, but it's good every so often to take a deep breath and remember some of the things that we have to be grateful for. These students and the dozens like them that submitted essays to the Daily News are to be celebrated for taking the time to help us remember why America is great.

I would also like to express my gratitude to the Daily News for keeping the reopening of the crown of the Statue of Liberty on the front page and hammering away in 23 editorials when the Statue of Liberty was closed. You know, as with any campaign, it is not one person banging a drum, it is our whole community. And the Daily News jumped in there

when it was time to figure out how to raise money to reopen the Statue of Liberty, and then when it became clear that the National Park Service was doing worse than dragging their feet, but refusing to open it, the Daily News wouldn't let up. And every time, whether it was passing an amendment or having hearings, every time I ran up this hill in Washington, I knew I had the Daily News behind me. And I think every one else knew—they were either going to be on that Daily News bandwagon, or under it.

When the Statue of Liberty was closed after the tragic events of 9/11, it symbolized Americans coming to terms with new threats, but while every other national monument reopened, the crown remained closed. With the reopening of the Crown on July 4, we were able to once again show our appreciation for the diversity that has always been the foundation of our Nation's strength.

To recognize these young patriots I submit the following essays.

DEAR LADY LIBERTY,

The Statue of Liberty and Ellis Island are both very important in U.S. history because they both changed the lives of many people in and out of the U.S.A. Ellis Island gave great opportunities and hope to people in other countries.

If Ellis Island was never created, then the dreamers (from other countries) who wanted so desperately to come to America and be an American, wouldn't have had their dreams come true. In addition, without Ellis Island, America wouldn't have experienced new cultures, new food and of course new religions.

Personally, to me Lady Liberty expresses the freedom of our beautiful country. With her hand up in the air, holding that torch, she shows that we have won the battle for our freedom! As you can see, Ellis Island and the Statue of Liberty will always be an important part of American history.

MONA PLATT.

DEAR LADY LIBERTY,

My name is Anthony Guarino, I am 8 years old. I live in Brooklyn, New York, and I am proud of the Statue of Liberty and Ellis Island.

The Statue of Liberty and Ellis Island are important to me because it represents the most important thing that makes our country great and it is "Freedom." The Statue of Liberty is a symbol that all dreams are possible. Ellis Island is important to me because it was a welcoming place for all people wanting the American dream.

Thanks to Ellis Island, my great-grandparents were able to come from Italy by boat, with one thing in mind: an opportunity to improve their children's lives and the lives of their future grandchildren. My great-grandparents' dream of coming to Ellis Island gave me opportunities that many people can only dream of.

I am thankful to France because the Statue of Liberty was their gift of friendship to us. I am thankful to the Statue of Liberty because she gave this friendship back to many other people from different countries all over the world.

I will always be proud when I look at the Statue of Liberty and remember, because of her, I am a proud American.

ANTHONY GUARINO.

DEAR LADY LIBERTY,

I first saw you in the pictures my mom sent me, when I was in the Philippines, three years ago. You looked marvelous! Now when I visit you and see you, I am so proud because I feel that you are my friend.

To me, you are a remembrance of freedom, justice and friendship. You remind me of the

Philippine and American history, when the U.S. returned full leadership to the Filipino people. You remind me of a respectful friendship and intense bonding when my great-grandfather was fighting side by side with the American soldiers during World War II.

You and Ellis Island have a soft spot in my heart. As an immigrant, Ellis Island symbolizes the main gate of liberty and hope. It reminds me of my family's struggle, courage and determination to leave my country and find a future here in the U.S.

Lady Liberty, I feel so proud watching you, being near you and being a part of history. Continue to inspire.

God Bless the USA!

NICA GARANA.

DEAR LADY LIBERTY,

The Statue of Liberty is important to me because I know it is the first thing that my great-grandmother saw when she came to this country. She was only 12 years old, my exact age, and she was fleeing Poland, a country where she was being persecuted.

Poland was not a friendly country for the Jews, like my great-grandmother. She constantly had to worry about being beaten up by policemen for no reason. There were often "pogroms," which were when the people of the town decided to invade the Jewish areas and ransack the homes and kill Jews for no reason as well. The Jews lived in constant fear of being attacked, robbed or killed just because they were Jewish.

My great-grandmother wanted to live in a country and raise her children in a place where there was freedom and no fear. She knew she could walk the streets here with a clear head and a hope for opportunity. When my great-grandmother looked at Lady Liberty, she saw a beautiful woman who held out her arm to welcome her and tell her that her children, her grandchildren and great-grandchildren would live freely and thrive here. So when my great-grandmother saw Lady Liberty and smiled at her, I am sure she felt the statue smiling back at her for more reasons than one.

ALLAN MARCUS.

DEAR LADY LIBERTY,

The Statue of Liberty and Ellis Island, home to New York Harbor, hold much importance to me.

I know that millions of people, including my own ancestors from Ireland and Italy who arrived by boat in the late 1800s and early 1900s, made their first stop in this country right on Ellis Island. For all those newcomers, the sight of that beautiful, tall, green statue signified the end of their long, grueling journey and, at the same time, the beginning of a new and opportunistic life here in America.

But for me personally, each time I see that statue, whether I'm crossing the Verrazano Bridge or riding to Manhattan on a ferry, the Lady in the Harbor makes me feel like I'm home, and home here in New York surely is the greatest place to be; how lucky I am.

JULIET SULLIVAN.

EARMARK DECLARATION

**HON. JERRY LEWIS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 13, 2009*

Mr. LEWIS of California. Madam Speaker, pursuant to Republican earmark guidance, I am submitting the following: in regards to Energy and Water Development and Related Agencies Appropriations Act, 2010.