

117TH CONGRESS
1ST SESSION

H. R. 675

To prohibit price gouging in connection with the public health emergency resulting from COVID–19, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 2021

Ms. SCHAKOWSKY (for herself, Mr. PALLONE, Mr. NADLER, and Mr. CICILLINE) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To prohibit price gouging in connection with the public health emergency resulting from COVID–19, 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 title may be cited as the “COVID–19 Price
5 Gouging Prevention Act”.

6 **SEC. 2. PREVENTION OF PRICE GOUGING.**

7 (a) IN GENERAL.—For the duration of a public
8 health emergency declared pursuant to section 319 of the
9 Public Health Service Act (42 U.S.C. 247d) as a result

1 of confirmed cases of 2019 novel coronavirus (COVID–
2 19), including any renewal thereof, it shall be unlawful
3 for any person to sell or offer for sale a good or service
4 at a price that—

5 (1) is unconscionably excessive; and

6 (2) indicates the seller is using the cir-
7 cumstances related to such public health emergency
8 to increase prices unreasonably.

9 (b) FACTORS FOR CONSIDERATION.—In determining
10 whether a person has violated subsection (a), there shall
11 be taken into account, with respect to the price at which
12 such person sold or offered for sale the good or service,
13 factors that include the following:

14 (1) Whether such price grossly exceeds the av-
15 erage price at which the same or a similar good or
16 service was sold or offered for sale by such person—

17 (A) during the 90-day period immediately
18 preceding January 31, 2020; or

19 (B) during the period that is 45 days be-
20 fore or after the date that is one year before
21 the date such good or service is sold or offered
22 for sale under subsection (a).

23 (2) Whether such price grossly exceeds the av-
24 erage price at which the same or a similar good or

1 service was readily obtainable from other similarly
2 situated competing sellers before January 31, 2020.

3 (3) Whether such price reasonably reflects addi-
4 tional costs, not within the control of such person,
5 that were paid, incurred, or reasonably anticipated
6 by such person, or reasonably reflects the profit-
7 ability of forgone sales or additional risks taken by
8 such person, to produce, distribute, obtain, or sell
9 such good or service under the circumstances.

10 (c) ENFORCEMENT.—

11 (1) ENFORCEMENT BY FEDERAL TRADE COM-
12 MISSION.—

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

19 (B) POWERS OF COMMISSION.—The Com-
20 mission shall enforce subsection (a) in the same
21 manner, by the same means, and with the same
22 jurisdiction, powers, and duties as though all
23 applicable terms and provisions of the Federal
24 Trade Commission Act (15 U.S.C. 41 et seq.)
25 were incorporated into and made a part of this

1 section. Any person who violates such sub-
2 section shall be subject to the penalties and en-
3 titled to the privileges and immunities provided
4 in the Federal Trade Commission Act.

5 (2) EFFECT ON OTHER LAWS.—Nothing in this
6 section shall be construed in any way to limit the
7 authority of the Commission under any other provi-
8 sion of law.

9 (3) ENFORCEMENT BY STATE ATTORNEYS GEN-
10 ERAL.—

11 (A) IN GENERAL.—If the chief law en-
12 forcement officer of a State, or an official or
13 agency designated by a State, has reason to be-
14 lieve that any person has violated or is violating
15 subsection (a), the attorney general, official, or
16 agency of the State, in addition to any author-
17 ity it may have to bring an action in State
18 court under its laws, may bring a civil action in
19 any appropriate United States district court or
20 in any other court of competent jurisdiction, in-
21 cluding a State court, to—

22 (i) enjoin further such violation by
23 such person;

24 (ii) enforce compliance with such sub-
25 section;

- 1 (iii) obtain civil penalties; and
2 (iv) obtain damages, restitution, or
3 other compensation on behalf of residents
4 of the State.

5 (B) NOTICE AND INTERVENTION BY THE
6 FTC.—The attorney general of a State shall
7 provide prior written notice of any action under
8 subparagraph (A) to the Commission and pro-
9 vide the Commission with a copy of the com-
10 plaint in the action, except in any case in which
11 such prior notice is not feasible, in which case
12 the attorney general shall serve such notice im-
13 mediately upon instituting such action. The
14 Commission shall have the right—

- 15 (i) to intervene in the action;
16 (ii) upon so intervening, to be heard
17 on all matters arising therein; and
18 (iii) to file petitions for appeal.

19 (C) LIMITATION ON STATE ACTION WHILE
20 FEDERAL ACTION IS PENDING.—If the Commis-
21 sion has instituted a civil action for violation of
22 this section, no State attorney general, or offi-
23 cial or agency of a State, may bring an action
24 under this paragraph during the pendency of
25 that action against any defendant named in the

1 complaint of the Commission for any violation
2 of this section alleged in the complaint.

3 (D) RELATIONSHIP WITH STATE-LAW
4 CLAIMS.—If the attorney general of a State has
5 authority to bring an action under State law di-
6 rected at acts or practices that also violate this
7 section, the attorney general may assert the
8 State-law claim and a claim under this section
9 in the same civil action.

10 (4) SAVINGS CLAUSE.—Nothing in this section
11 shall preempt or otherwise affect any State or local
12 law.

13 (d) DEFINITIONS.—In this section:

14 (1) COMMISSION.—The term “Commission”
15 means the Federal Trade Commission.

16 (2) GOOD OR SERVICE.—The term “good or
17 service” means a good or service offered in com-
18 merce, including—

19 (A) food, beverages, water, ice, a chemical,
20 or a personal hygiene product;

21 (B) any personal protective equipment for
22 protection from or prevention of contagious dis-
23 eases, filtering facepiece respirators, medical
24 equipment and supplies (including medical test-
25 ing supplies), a drug as defined in section

1 201(g)(1) of the Federal Food, Drug, and Cos-
2 metic Act (21 U.S.C. 321(g)(1)), cleaning sup-
3 plies, disinfectants, sanitizers; or

4 (C) any healthcare service, cleaning serv-
5 ice, or delivery service.

6 (3) STATE.—The term “State” means each of
7 the several States, the District of Columbia, each
8 commonwealth, territory, or possession of the United
9 States, and each federally recognized Indian Tribe.

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