

116TH CONGRESS  
2D SESSION

# H. R. 6472

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

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 2020

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

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## 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 Act 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 circumstan-  
7 ces related to such public health emergency to in-  
8 crease 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 same 90-day period of the  
20 previous year.

21 (2) Whether such price grossly exceeds the av-  
22 erage price at which the same or a similar good or  
23 service was readily obtainable from other similarly  
24 situated competing sellers before January 31, 2020.

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

8           (c) ENFORCEMENT.—

9           (1) ENFORCEMENT BY FEDERAL TRADE COM-  
10          MISSION.—

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

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

1 the privileges and immunities provided in the  
2 Federal Trade Commission Act.

3 (2) EFFECT ON OTHER LAWS.—Nothing in this  
4 Act shall be construed in any way to limit the au-  
5 thority of the Commission under any other provision  
6 of law.

7 (3) ENFORCEMENT BY STATE ATTORNEYS GEN-  
8 ERAL.—

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

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

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

25 (iii) obtain civil penalties; and

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

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

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

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

1           plaint of the Commission for any violation of  
2           this Act 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           Act, the attorney general may assert the State-  
8           law claim and a claim under this Act in the  
9           same civil action.

10          (4) SAVINGS CLAUSE.—Nothing in this Act  
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           supplies (including medical testing supplies),  
25           cleaning supplies, disinfectants, sanitizers; or

1                   (C) any healthcare service, cleaning serv-  
2                   ice, or delivery service.

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

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