

118TH CONGRESS
2D SESSION

H. R. 7828

To prohibit the pricing of consumer products and services that are substantially similar if such products or services are priced differently based on the gender of the individuals for whose use the products are intended or marketed or for whom the services are performed or offered.

IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2024

Mrs. TORRES of California (for herself, Mrs. BEATTY, Ms. BONAMICI, Mr. BOWMAN, Ms. BROWNLEY, Ms. CLARKE of New York, Ms. CHU, Mr. CONNOLLY, Ms. DEAN of Pennsylvania, Mrs. DINGELL, Ms. LOIS FRANKEL of Florida, Mr. FROST, Ms. GARCIA of Texas, Mr. GREEN of Texas, Mr. JOHNSON of Georgia, Mrs. HAYES, Mr. KHANNA, Ms. KELLY of Illinois, Ms. MOORE of Wisconsin, Ms. NORTON, Ms. OMAR, Mr. POCAN, Mrs. RAMIREZ, Mr. SCHIFF, Ms. TITUS, Ms. VELÁZQUEZ, Ms. WASSERMAN SCHULTZ, and Mrs. WATSON COLEMAN) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To prohibit the pricing of consumer products and services that are substantially similar if such products or services are priced differently based on the gender of the individuals for whose use the products are intended or marketed or for whom the services are performed or offered.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Pink Tax Repeal Act”.

3 **SEC. 2. PROHIBITION ON GENDER-BASED PRICING OF CON-**
4 **SUMER PRODUCTS AND SERVICES.**

5 (a) PROHIBITED PRACTICES.—

6 (1) CONSUMER PRODUCTS.—It shall be unlaw-
7 ful for any person to sell or offer for sale in inter-
8 state commerce any two consumer products from the
9 same manufacturer that are substantially similar if
10 such products are priced differently based on the
11 gender of the individuals for whose use the products
12 are intended or marketed.

13 (2) SERVICES.—It shall be unlawful for any
14 person to sell or offer for sale any services that are
15 substantially similar if such services are priced dif-
16 ferently based on the gender of the individuals for
17 which the services are performed, offered, or mar-
18 keted.

19 (b) ENFORCEMENT BY THE COMMISSION.—

20 (1) UNFAIR AND DECEPTIVE ACT OR PRAC-
21 TICE.—A violation of subsection (a) shall be treated
22 as a violation of a rule prescribed under section
23 18(a)(1)(B) of the Federal Trade Commission Act
24 (15 U.S.C. 57a(a)(1)(B)) defining an unfair or de-
25 ceptive act or practice in or affecting interstate com-
26 merce.

1 (2) POWERS OF THE COMMISSION.—The Fed-
2 eral Trade Commission shall enforce this section in
3 the same manner, by the same means, and with the
4 same jurisdiction, powers, and duties as though all
5 applicable terms and provisions of the Federal Trade
6 Commission Act were incorporated into and made a
7 part of this Act.

8 (3) PRIVILEGES AND IMMUNITIES.—Any person
9 who violates subsection (a) shall be subject to the
10 penalties and entitled to the privileges and immuni-
11 ties provided in the Federal Trade Commission Act
12 (15 U.S.C. 41 et seq.).

13 (4) AUTHORITY PRESERVED.—Nothing in this
14 section shall be construed to limit the authority of
15 the Commission under any other provision of law.

16 (c) STATE ATTORNEYS GENERAL.—

17 (1) CIVIL ACTION.—In any case in which the
18 attorney general of a State has reason to believe
19 that an interest of the residents of the State has
20 been or is adversely affected by a violation of sub-
21 section (a), the attorney general may, as *parens*
22 *patriae*, bring a civil action on behalf of the resi-
23 dents of the State in an appropriate district court of
24 the United States—

1 (A) to enjoin further violation of such sub-
2 section by the defendant;

3 (B) to compel compliance with such sub-
4 section; or

5 (C) obtain damages, restitution, or other
6 compensation on behalf of residents of the
7 State.

8 (2) NOTICE TO THE COMMISSION.—

9 (A) NOTICE.—Except as provided in sub-
10 paragraph (C), the attorney general of a State
11 shall notify the Commission in writing that the
12 attorney general intends to bring a civil action
13 under paragraph (1) not later than 10 days be-
14 fore initiating the civil action.

15 (B) CONTENTS.—The notice required by
16 subparagraph (A) shall include a copy of the
17 complaint to be filed to initiate such civil ac-
18 tion.

19 (C) EXCEPTION.—If it is not feasible for
20 the attorney general of a State to provide the
21 notice required by subparagraph (A), the attor-
22 ney general shall notify the Commission imme-
23 diately upon instituting a civil action under
24 paragraph (1).

1 (3) INTERVENTION BY THE COMMISSION.—The
2 Commission may—

3 (A) intervene in any civil action brought by
4 the attorney general of a State under this sub-
5 section; and

6 (B) upon intervening, be heard on all mat-
7 ters arising in such civil action and file peti-
8 tions for appeal of a decision in such action.

9 (4) INVESTIGATORY POWERS.—Nothing in this
10 subsection may be construed to prevent the attorney
11 general of a State from exercising the powers con-
12 ferred on the attorney general by the laws of the
13 State to conduct investigations, to administer oaths
14 or affirmations, or to compel the attendance of wit-
15 nesses or the production of documentary or other
16 evidence.

17 (5) PREEMPTIVE ACTION BY THE COMMIS-
18 SION.—If the Commission institutes a civil action or
19 an administrative action for a violation of this sec-
20 tion, the attorney general of a State may not, during
21 the pendency of such action, bring a civil action
22 under this subsection against any defendant named
23 in the complaint of the Commission for the violation
24 with respect to which the Commission instituted
25 such action.

1 (6) ACTIONS BY OTHER STATE OFFICIALS.—

2 (A) IN GENERAL.—In addition to any civil
3 action brought by an attorney general under
4 paragraph (1), any other consumer protection
5 officer of a State who is authorized by the State
6 to do so may bring a civil action under para-
7 graph (1), subject to the same requirements
8 and limitations that apply under this subsection
9 to civil actions brought by an attorney general.

10 (B) SAVINGS PROVISION.—Nothing in this
11 subsection may be construed to prohibit an au-
12 thorized official of a State from initiating or
13 continuing any proceeding in a court of the
14 State for a violation of any civil or criminal law
15 of the State.

16 (d) RULES OF CONSTRUCTION.—

17 (1) SUBSTANTIALLY SIMILAR PRODUCTS.—For
18 purposes of this section, two consumer products are
19 substantially similar if there are no substantial dif-
20 ferences in the materials used in the product, the in-
21 tended use of the product, and the functional design
22 and features of the product. A difference in coloring
23 among any consumer products shall not be con-
24 strued as a substantial difference for purposes of
25 this paragraph.

1 (2) SUBSTANTIALLY SIMILAR SERVICES.—For
2 purposes of this section, two services are substan-
3 tially similar if there is no substantial difference in
4 the amount of time to provide the services, the dif-
5 ficulty in providing the services, or the cost of pro-
6 viding the services.

7 (e) DEFINITIONS.—In this section:

8 (1) COMMISSION.—The term “Commission”
9 means the Federal Trade Commission.

10 (2) CONSUMER PRODUCT.—The term “con-
11 sumer product”—

12 (A) has the meaning given such term in
13 section 3 of the Consumer Product Safety Act
14 (15 U.S.C. 2052);

15 (B) includes a device or cosmetics, as such
16 terms are defined in section 201 of the Federal
17 Food, Drug, and Cosmetic Act (21 U.S.C.
18 321); and

19 (C) includes a child restraint system, as
20 such term is defined in section 571.213 of title
21 49, Code of Federal Regulations.

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