

118TH CONGRESS
2D SESSION

S. 3819

To direct the Federal Trade Commission to issue regulations to establish shrinkflation as an unfair or deceptive act or practice, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2024

Mr. CASEY (for himself, Ms. BALDWIN, Ms. WARREN, Ms. ROSEN, Mr. BOOKER, Mr. WHITEHOUSE, Mr. BROWN, Mrs. MURRAY, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To direct the Federal Trade Commission to issue regulations to establish shrinkflation as an unfair or deceptive act or practice, 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 “Shrinkflation Preven-
5 tion Act of 2024”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) According to the Bureau of Economic Anal-
9 ysis, from the third quarter of 2020 to the second

1 quarter of 2022, corporate profits rose by 75 per-
2 cent, and Federal Reserve research found that 42
3 percent of inflation over that same time period went
4 toward greater corporate profits.

5 (2) Shrinkflation, or product downsizing, occurs
6 when a company decreases the amount or size of a
7 consumer product and charges the same price, or a
8 higher price, for such smaller product.

9 (3) Companies seek to deceive consumers when
10 they practice shrinkflation without clearly disclosing
11 the size change and per unit price increase of a
12 product.

13 (4) According to the Bureau of Labor Statis-
14 tics, roughly 10 percent of inflation in some con-
15 sumer product categories is driven by shrinkflation.

16 (5) Deceptive shrinkflation tactics allow compa-
17 nies to profit off unaware consumers, as academic
18 research shows that consumers are less sensitive to
19 changes in product size than to changes in price.

20 (6) Shrinkflation is disrupting the ability of
21 families in the United States to save money.

22 **SEC. 3. PROHIBITION OF SHRINKFLATION.**

23 (a) DEFINITION OF SHRINKFLATION.—

24 (1) IN GENERAL.—In this Act, the term
25 “shrinkflation” means the practice of downsizing, or

1 reducing the amount or size of a consumer product
2 (as defined in section 101 of the Magnuson-Moss
3 Warranty—Federal Trade Commission Improvement
4 Act (15 U.S.C. 2301)) while not decreasing the price
5 of such product by a commensurate amount.

6 (2) MODIFICATIONS.—The Federal Trade Com-
7 mission (in this section referred to as the “Commis-
8 sion”) may promulgate regulations under section
9 553 of title 5, United States Code, to modify the
10 definition in paragraph (1) as the Commission con-
11 siders appropriate.

12 (b) PROHIBITION.—Not later than 18 months after
13 the date of enactment of this Act, the Commission shall
14 promulgate regulations under section 553 of title 5,
15 United States Code, to prohibit any manufacturer from
16 engaging in shrinkflation.

17 **SEC. 4. ENFORCEMENT.**

18 (a) ENFORCEMENT BY THE COMMISSION.—

19 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
20 TICES.—A violation of a regulation promulgated
21 under section 3(b) shall be treated as a violation of
22 a rule defining an unfair or deceptive act or practice
23 under section 18(a)(1)(B) of the Federal Trade
24 Commission Act (15 U.S.C. 57a(a)(1)(B)).

25 (2) POWERS OF THE COMMISSION.—

1 (A) IN GENERAL.—The Commission shall
2 enforce the regulations promulgated under sec-
3 tion 3(b) in the same manner, by the same
4 means, and with the same jurisdiction, powers,
5 and duties as though all applicable terms and
6 provisions of the Federal Trade Commission
7 Act (15 U.S.C. 41 et seq.) were incorporated
8 into and made a part of this Act.

9 (B) PRIVILEGES AND IMMUNITIES.—Any
10 person who violates a regulation promulgated
11 under section 3(b) shall be subject to the pen-
12 alties and entitled to the privileges and immuni-
13 ties provided in the Federal Trade Commission
14 Act (15 U.S.C. 41 et seq.).

15 (C) AUTHORITY PRESERVED.—Nothing in
16 this Act shall be construed to limit the author-
17 ity of the Commission under any other provi-
18 sion of law.

19 (D) RULEMAKING.—The Commission shall
20 promulgate in accordance with section 553 of
21 title 5, United States Code, such rules as may
22 be necessary to carry out this Act.

23 (b) ENFORCEMENT BY STATES.—

24 (1) IN GENERAL.—In any case in which the at-
25 torney general of a State has reason to believe that

1 an interest of the residents of the State has been or
 2 is threatened or adversely affected by the engage-
 3 ment of any person in a practice that violates a reg-
 4 ulation promulgated under section 3(b), the attorney
 5 general of the State may, as *parens patriae*, bring
 6 a civil action on behalf of the residents of the State
 7 in an appropriate district court of the United
 8 States—

9 (A) to enjoin further violation of such reg-
 10 ulation by such person;

11 (B) to compel compliance with such regula-
 12 tion;

13 (C) to obtain a permanent, temporary, or
 14 preliminary injunction;

15 (D) to obtain civil penalties;

16 (E) to obtain damages, restitution, or
 17 other compensation on behalf of such residents;

18 or

19 (F) to obtain any other equitable relief
 20 deemed appropriate by the court.

21 (2) RIGHTS OF THE COMMISSION.—

22 (A) NOTICE TO THE COMMISSION.—

23 (i) IN GENERAL.—Except as provided
 24 in clause (iii), the attorney general of a
 25 State shall notify the Commission in writ-

1 ing that the attorney general intends to
2 bring a civil action under paragraph (1)
3 not later than 10 days before initiating the
4 civil action.

5 (ii) CONTENTS.—The notification re-
6 quired by clause (i) with respect to a civil
7 action shall include a copy of the complaint
8 to be filed to initiate the civil action.

9 (iii) EXCEPTION.—If it is not feasible
10 for the attorney general of a State to pro-
11 vide the notification required by clause (i)
12 before initiating a civil action under para-
13 graph (1), the attorney general shall notify
14 the Commission immediately upon insti-
15 tuting the civil action.

16 (B) INTERVENTION BY THE COMMIS-
17 SION.—The Commission may—

18 (i) intervene in any civil action
19 brought by the attorney general of a State
20 under paragraph (1); and

21 (ii) upon intervening—

22 (I) be heard on all matters aris-
23 ing in the civil action; and

24 (II) file petitions for appeal of a
25 decision in the civil action.

1 (3) INVESTIGATORY POWERS.—Nothing in this
2 subsection may be construed to prevent the attorney
3 general of a State from exercising the powers con-
4 ferred on the attorney general by the laws of the
5 State to conduct investigations, to administer oaths
6 or affirmations, or to compel the attendance of wit-
7 nesses or the production of documentary or other
8 evidence.

9 (4) ACTION BY THE COMMISSION.—If the Com-
10 mission institutes a civil action or an administrative
11 action with respect to a violation of a regulation pro-
12 mulgated under section 3(b), the attorney general of
13 a State may not, during the pendency of such ac-
14 tion, bring a civil action under paragraph (1)
15 against any defendant named in the complaint of the
16 Commission for the violation with respect to which
17 the Commission instituted such action.

18 (5) VENUE; SERVICE OF PROCESS.—

19 (A) VENUE.—Any action brought under
20 paragraph (1) may be brought in—

21 (i) the district court of the United
22 States that meets applicable requirements
23 relating to venue under section 1391 of
24 title 28, United States Code; or

1 (ii) another court of competent juris-
2 diction.

3 (B) SERVICE OF PROCESS.—In an action
4 brought under paragraph (1), process may be
5 served in any district in which the defendant—

6 (i) is an inhabitant; or

7 (ii) may be found.

8 (6) ACTIONS BY OTHER STATE OFFICIALS.—

9 (A) IN GENERAL.—In addition to civil ac-
10 tions brought by attorneys general under para-
11 graph (1), any other official of a State who is
12 authorized by the State to do so may bring a
13 civil action under paragraph (1), subject to the
14 same requirements and limitations that apply
15 under this subsection to civil actions brought by
16 attorneys general.

17 (B) SAVINGS PROVISION.—Nothing in this
18 subsection may be construed to prohibit an au-
19 thorized official of a State from initiating or
20 continuing any proceeding in a court of the
21 State for a violation of any civil or criminal law
22 of the State.

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