

116TH CONGRESS
2D SESSION

H. R. 7277

To prohibit unconscionable pricing of emergency supplies for responders during a Federal emergency period, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 18, 2020

Ms. SPEIER (for herself, Mr. COHEN, Ms. JACKSON LEE, and Ms. MENG) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To prohibit unconscionable pricing of emergency supplies for responders during a Federal emergency period, 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 “Unconscionable Pric-
5 ing Act”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

8 (1) to protect local and State government agen-
9 cies and private and nonprofit organizations acting

1 in response to the covered emergency to protect the
2 health, safety, and welfare of persons; and

3 (2) to make it unlawful in the region or State
4 affected by a covered emergency for any person to
5 impose or otherwise charge unconscionable prices to
6 responders for the purchase or procurement of emer-
7 gency supplies during the period of the covered
8 emergency.

9 **SEC. 3. PROHIBITION OF UNCONSCIONABLE PRICING DUR-**
10 **ING DECLARED STATE OF EMERGENCY.**

11 (a) IN GENERAL.—During an emergency period it
12 shall be unlawful in the region or State affected by the
13 emergency declaration for any person to impose uncon-
14 scionable prices for the sale, rental, lease, or procurement
15 of any emergency supply.

16 (b) FACTORS FOR CONSIDERATION.—In determining
17 whether a seller has violated subsection (a), a price shall
18 be considered unconscionable if any person during the
19 emergency period charges a price that exceeds, by an
20 amount equal to or in excess of 10 percent the average
21 price at which the same or similar emergency supply was
22 obtainable in the affected area during 30 days before the
23 emergency declaration was issued and the increase in price
24 charged is not attributable to reasonable costs incurred

1 in connection with the rental or sale of the emergency sup-
2 ply.

3 (c) ENFORCEMENT.—

4 (1) ENFORCEMENT BY THE FEDERAL TRADE
5 COMMISSION.—

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

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

23 (2) EFFECT ON OTHER LAWS.—Nothing in this
24 Act shall be construed in any way to limit the au-
25 thority of the Commission under any other provision

1 of law or to limit the application of any Federal or
2 State law.

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

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

17 (i) enjoin further such violation by
18 such person;

19 (ii) enforce compliance with such sub-
20 section;

21 (iii) obtain civil penalties; and

22 (iv) obtain damages, restitution, or
23 other compensation on behalf of residents
24 of the State.

1 (B) NOTICE AND INTERVENTION BY THE
2 FEDERAL TRADE COMMISSION.—The attorney
3 general of a State shall provide prior written
4 notice of any action under subparagraph (A) to
5 the Commission and provide the Commission
6 with a copy of the complaint in the action, ex-
7 cept in any case in which such prior notice is
8 not feasible, in which case the attorney general
9 shall serve such notice immediately upon insti-
10 tuting such action. The Commission shall have
11 the right—

12 (i) to intervene in the action;

13 (ii) upon so intervening, to be heard
14 on all matters arising therein; and

15 (iii) to file petitions for appeal.

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

25 (d) DEFINITIONS.—In this section:

1 (1) EMERGENCY DECLARATION.—The term
2 “emergency declaration” means—

3 (A) a public health emergency declared
4 pursuant to section 319 of the Public Health
5 Service Act (42 U.S.C. 247d); and

6 (B) a declaration of emergency declared
7 pursuant to the Robert T. Stafford Disaster
8 Relief and Emergency Assistance Act (42
9 U.S.C. 5121 note).

10 (2) EMERGENCY PERIOD.—The term “emer-
11 gency period” means the period of time following an
12 emergency declaration, including a renewal thereof,
13 and for a period of 30 days after such period ends.

14 (3) EMERGENCY SUPPLY.—The term “emer-
15 gency supply” means any good, material, or equip-
16 ment needed by responders to protect the health,
17 safety, and welfare of persons during the emergency
18 period.

19 (4) PERSON.—The term “person” shall include,
20 but not be limited to, natural persons, corporations,
21 trusts, partnerships, incorporated or unincorporated
22 associations, and any other legal entity.

23 (5) RESPONDERS.—The term “responders”—

24 (A) means any local or State governmental
25 agency and private and nonprofit organizations,

1 whether incorporated or unincorporated, acting
2 in response to the covered emergency to protect
3 the health, safety, and welfare of persons; and

4 (B) includes State and local departments
5 responsible for health and human services,
6 State procurement agencies, hospitals, and
7 medical facilities.

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