

117TH CONGRESS 1ST SESSION

H. R. 732

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

IN THE HOUSE OF REPRESENTATIVES

February 2, 2021

Ms. Speier (for herself, Mr. Cohen, Ms. Jackson Lee, Mr. Jones, Ms. Scanlon, and Mr. Carson) 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

- in response to the covered emergency to protect the health, safety, and welfare of persons; and
- 2) to make it unlawful for any person to impose or otherwise charge unconscionable prices to responders in the region or State affected by a covered emergency for the purchase or procurement of emergency supplies during the period of the covered 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 for any person to impose unconscionable 13 prices in the region or State affected by the emergency 14 declaration for the sale, rental, lease, or procurement of
- 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

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any emergency supply.

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 Federa
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-

thority of the Commission under any other provision

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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 FEDERAL TRADE COMMISSION.—The attorney 2 3 general of a State shall provide prior written 4 notice of any action under subparagraph (A) to 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

- (C) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Commission has instituted a civil action for violation of this section, no State attorney general, or official or agency of a State, may bring an action under this paragraph during the pendency of that action against any defendant named in the complaint of the Commission for any violation of this Act alleged in the complaint.
- 25 (d) Definitions.—In this section:

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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,
5	State procurement agencies, hospitals, and
7	medical facilities.

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