

# 117TH CONGRESS 2D SESSION H.R. 7463

To protect consumers from price-gouging of gasoline and other fuels, and for other purposes.

## IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 2022

Mr. Harder of California introduced the following bill; which was referred to the Committee on Energy and Commerce

## A BILL

To protect consumers from price-gouging of gasoline and other fuels, 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 "Gas Price Gouging
- 5 Prevention Act".
- 6 SEC. 2. UNCONSCIONABLE PRICING OF GASOLINE AND
- 7 OTHER PETROLEUM DISTILLATES DURING
- 8 EMERGENCIES.
- 9 (a) Unconscionable Pricing.—

(1) IN GENERAL.—It shall be unlawful for any person to sell, at wholesale or at retail in an area and during a period of an international crisis affecting the oil markets proclaimed under paragraph (2), gasoline or any other petroleum distillate covered by a proclamation issued under paragraph (2) at a price that—

- (A) is unconscionably excessive; and
- (B) indicates the seller is taking unfair advantage of the circumstances related to an international crisis to increase prices unreasonably.

## (2) Energy emergency proclamation.—

(A) IN GENERAL.—The President may issue a proclamation of an international crisis affecting the oil markets and may designate any area within the jurisdiction of the United States (including the entire United States), where the prohibition in paragraph (1) shall apply. The proclamation shall state the geographic area covered, the gasoline or other petroleum distillate covered, and the time period that such proclamation shall be in effect.

## (B) DURATION.—The proclamation—

1	(i) may not apply for a period of more
2	than 30 consecutive days, but may be re-
3	newed for such consecutive periods, each
4	not to exceed 30 days, as the President de-
5	termines appropriate; and
6	(ii) may include a period of time not
7	to exceed 1 week preceding a reasonably
8	foreseeable emergency.
9	(3) Factors considered.—In determining
10	whether a person has violated paragraph (1), there
11	shall be taken into account, among other factors—
12	(A) whether the amount charged by such
13	person for the applicable gasoline or other pe-
14	troleum distillate at a particular location in an
15	area covered by a proclamation issued under
16	paragraph (2) during the period such proclama-
17	tion is in effect—
18	(i) grossly exceeds the average price
19	at which the applicable gasoline or other
20	petroleum distillate was offered for sale by
21	that person during the 30 days prior to
22	such proclamation;
23	(ii) grossly exceeds the price at which
24	the same or similar gasoline or other pe-
25	troleum distillate was readily obtainable in

1	the same area from other competing sellers
2	during the same period;
3	(iii) reasonably reflected additional
4	costs, not within the control of that person,
5	that were paid, incurred, or reasonably an-
6	ticipated by that person, or reflected addi-
7	tional risks taken by that person to
8	produce, distribute, obtain, or sell such
9	product under the circumstances; and
10	(iv) was substantially attributable to
11	local, regional, national, or international
12	market conditions; and
13	(B) whether the quantity of gasoline or
14	other petroleum distillate the person produced,
15	distributed, or sold in an area covered by a
16	proclamation issued under paragraph (2) dur-
17	ing a 30-day period following the issuance of
18	such proclamation increased over the quantity
19	that that person produced, distributed, or sold
20	during the 30 days prior to such proclamation,
21	taking into account usual seasonal demand vari-
22	ations.
23	(b) Definitions.—As used in this section—
24	(1) the term "wholesale", with respect to sales
25	of gasoline or other petroleum distillates, means ei-

- 1 ther truckload or smaller sales of gasoline or petro-
- 2 leum distillates where title transfers at a product
- 3 terminal or a refinery, and dealer tank wagon sales
- 4 of gasoline or petroleum distillates priced on a deliv-
- 5 ered basis to retail outlets; and
- 6 (2) the term "retail", with respect to sales of
- 7 gasoline or other petroleum distillates, includes all
- 8 sales to end users such as motorists as well as all
- 9 direct sales to other end users such as agriculture,
- industry, residential, and commercial consumers.

## 11 SEC. 3. ENFORCEMENT BY THE FEDERAL TRADE COMMIS-

- 12 SION.
- 13 (a) Enforcement by FTC.—A violation of section
- 14 2 shall be treated as a violation of a rule defining an un-
- 15 fair or deceptive act or practice prescribed under section
- 16 18(a)(1)(B) of the Federal Trade Commission Act (15
- 17 U.S.C. 57a(a)(1)(B)). The Federal Trade Commission
- 18 shall enforce this Act in the same manner, by the same
- 19 means, and with the same jurisdiction as though all appli-
- 20 cable terms and provisions of the Federal Trade Commis-
- 21 sion Act were incorporated into and made a part of this
- 22 Act. In enforcing section 2 of this Act, the Commission
- 23 shall give priority to enforcement actions concerning com-
- 24 panies with total United States wholesale or retail sales

1	of gasoline and other petroleum distillates in excess of
2	\$10,000,000,000 per year.
3	(b) CIVIL PENALTIES.—
4	(1) In general.—Notwithstanding the pen-
5	alties set forth under the Federal Trade Commission
6	Act, any person who violates section 2 with actual
7	knowledge or knowledge fairly implied on the basis
8	of objective circumstances shall be subject to—
9	(A) a civil penalty of not more than 3
10	times the amount of profits gained by such per-
11	son through such violation; or
12	(B) a civil penalty of not more than
13	\$100,000,000.
14	(2) Method.—The penalties provided by para-
15	graph (1) shall be obtained in the same manner as
16	civil penalties obtained under section 5 of the Fed-
17	eral Trade Commission Act (15 U.S.C. 45).
18	(3) Multiple offenses; mitigating fac-
19	TORS.—In assessing the penalty provided by sub-
20	section (a)—
21	(A) each day of a continuing violation shall
22	be considered a separate violation; and
23	(B) the court shall take into consideration,
24	among other factors, the seriousness of the vio-
25	lation and the efforts of the person committing

- 1 the violation to remedy the harm caused by the
- 2 violation in a timely manner.

### 3 SEC. 4. CRIMINAL PENALTIES.

- 4 (a) In General.—In addition to any penalty appli-
- 5 cable under section 3, any person who violates section 2
- 6 shall be fined under title 18, United States Code, in an
- 7 amount not to exceed \$500,000,000.
- 8 (b) Enforcement.—The criminal penalty provided
- 9 by subsection (a) may be imposed only pursuant to a
- 10 criminal action brought by the Attorney General or other
- 11 officer of the Department of Justice. The Attorney Gen-
- 12 eral shall give priority to enforcement actions concerning
- 13 companies with total United States wholesale or retail
- 14 sales of gasoline and other petroleum distillates in excess
- 15 of \$10,000,000,000 per year.

#### 16 SEC. 5. ENFORCEMENT AT RETAIL LEVEL BY STATE ATTOR-

- 17 NEYS GENERAL.
- 18 (a) IN GENERAL.—A State, as parens patriae, may
- 19 bring a civil action on behalf of its residents in an appro-
- 20 priate district court of the United States to enforce the
- 21 provisions of section 2 of this Act, or to impose the civil
- 22 penalties authorized by section 3(b)(1)(B), whenever the
- 23 attorney general of the State has reason to believe that
- 24 the interests of the residents of the State have been or
- 25 are being threatened or adversely affected by a violation

- 1 of this Act or a regulation under this Act, involving a re-
- 2 tail sale.
- 3 (b) Notice.—The State shall serve written notice to
- 4 the Federal Trade Commission of any civil action under
- 5 subsection (a) prior to initiating such civil action. The no-
- 6 tice shall include a copy of the complaint to be filed to
- 7 initiate such civil action, except that if it is not feasible
- 8 for the State to provide such prior notice, the State shall
- 9 provide such notice immediately upon instituting such civil
- 10 action.
- 11 (c) AUTHORITY TO INTERVENE.—Upon receiving the
- 12 notice required by subsection (b), the Federal Trade Com-
- 13 mission may intervene in such civil action and upon inter-
- 14 vening—
- 15 (1) be heard on all matters arising in such civil
- 16 action; and
- 17 (2) file petitions for appeal of a decision in such
- 18 civil action.
- 19 (d) Construction.—For purposes of bringing any
- 20 civil action under subsection (a), nothing in this section
- 21 shall prevent the attorney general of a State from exer-
- 22 cising the powers conferred on the attorney general by the
- 23 laws of such State to conduct investigations or to admin-
- 24 ister oaths or affirmations or to compel the attendance

of witnesses or the production of documentary and other 2 evidence. 3 (e) Venue; Service of Process.—In a civil action brought under subsection (a)— 5 (1) the venue shall be a judicial district in 6 which-7 (A) the defendant operates; 8 (B) the defendant was authorized to do 9 business; or 10 (C) the defendant in the civil action is 11 found; 12 (2) process may be served without regard to the 13 territorial limits of the district or of the State in 14 which the civil action is instituted; and 15 (3) a person who participated with the defend-16 ant in an alleged violation that is being litigated in 17 the civil action may be joined in the civil action with-18 out regard to the residence of the person. 19 (f) Limitation on State Action While Federal ACTION IS PENDING.—If the Federal Trade Commission 21 has instituted a civil action or an administrative action for violation of this Act, no State attorney general, or official or agency of a State, may bring an action under this subsection during the pendency of that action against any defendant named in the complaint of the Federal Trade

- 1 Commission or the other agency for any violation of this
- 2 Act alleged in the complaint.
- 3 (g) Enforcement of State Law.—Nothing con-
- 4 tained in this section shall prohibit an authorized State
- 5 official from proceeding in State court to enforce a civil
- 6 or criminal statute of such State.

## 7 SEC. 6. EFFECT ON OTHER LAWS.

- 8 (a) Other Authority of Federal Trade Com-
- 9 MISSION.—Nothing in this Act shall be construed to limit
- 10 or affect in any way the Federal Trade Commission's au-
- 11 thority to bring enforcement actions or take any other
- 12 measure under the Federal Trade Commission Act (15
- 13 U.S.C. 41 et seq.) or any other provision of law.
- 14 (b) State Law.—Nothing in this Act preempts any
- 15 State law.

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