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(Original Signature of Member)

117TH CONGRESS
2D SESSION

H. R. _____

To clarify that the Federal Trade Commission Act prohibits excessive and unjustified price increases in the sale of certain products and services when an emergency or disaster results in abnormal disruptions of the market, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CLEAVER introduced the following bill; which was referred to the
Committee on _____

A BILL

To clarify that the Federal Trade Commission Act prohibits excessive and unjustified price increases in the sale of certain products and services when an emergency or disaster results in abnormal disruptions of the market, 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 “Disaster and Emer-
5 gency Pricing Abuse Prevention Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) COMMISSION.—The term “Commission”
4 means the Federal Trade Commission.

5 (2) CONSUMER FUEL.—The term “consumer
6 fuel” includes gasoline, distillate fuel oil, jet fuel, liq-
7 uid propane, aviation gasoline, compressed natural
8 gas, and biofuel (including ethanol, biomass-based
9 diesel, and renewable blending components) used for
10 transportation fuels, and home heating oil and liquid
11 propane used for residential heating or residential
12 energy generation.

13 (3) ESSENTIAL GOOD OR SERVICE.—The term
14 “essential good or service” means any good or serv-
15 ice (including a consumer fuel) that may be used to
16 preserve, protect, or sustain the health, safety, or
17 welfare of members of the public from potential
18 harms resulting from a natural disaster, a pandemic,
19 or the circumstances giving rise to a state of emer-
20 gency.

21 (4) NATURAL DISASTER.—The term “natural
22 disaster” means a disaster, catastrophe, or emer-
23 gency, including flood, fire, earthquake, storm, or
24 other serious act of nature, which threatens the
25 health, safety, or welfare of the public.

1 (5) STATE OF EMERGENCY.—The term “state
2 of emergency” means any state of emergency or dis-
3 aster declared by the President or by the govern-
4 ment of any State or territory of the United States.

5 (6) UNCONSCIONABLY EXCESSIVE PRICE.—The
6 term “unconscionably excessive price” means a price
7 that represents a gross disparity between the price
8 of the essential good or service that is the subject
9 of an offer or transaction during, or in anticipation
10 of, a natural disaster, pandemic, or state of emer-
11 gency and the average price at which such essential
12 good or service was offered in the ordinary course of
13 business prior to any public anticipation of a natural
14 disaster, pandemic, or state of emergency.

15 **SEC. 3. FEDERAL TRADE COMMISSION ENFORCEMENT**
16 **AGAINST PRICE GOUGING.**

17 (a) VIOLATION.—It shall be unlawful for any person
18 to sell, or offer for sale, in or affecting commerce any es-
19 sential good or service at an unconscionably excessive price
20 during, or in anticipation of, a natural disaster, pandemic,
21 or state of emergency.

22 (b) ENFORCEMENT.—

23 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
24 TICES.—A violation of this section or a regulation
25 promulgated under this section shall be treated as a

1 violation of a rule defining an unfair or deceptive act
2 or practice prescribed under section 18(a)(1)(B) of
3 the Federal Trade Commission Act (15 U.S.C.
4 57a(a)(1)(B)).

5 (2) POWERS OF THE COMMISSION.—

6 (A) IN GENERAL.—Except as otherwise
7 provided in subparagraph (C), the Commission
8 shall enforce this section and the regulations
9 promulgated under this section in the same
10 manner, by the same means, and with the same
11 jurisdiction, powers, and duties as though all
12 applicable terms and provisions of the Federal
13 Trade Commission Act (15 U.S.C. 41 et seq.)
14 were incorporated into and made a part of this
15 section.

16 (B) PRIVILEGES AND IMMUNITIES.—Any
17 person who violates this section or a regulation
18 promulgated under this section shall be subject
19 to the penalties, and entitled to the privileges
20 and immunities, provided in the Federal Trade
21 Commission Act (15 U.S.C. 41 et seq.).

22 (C) APPLICATION TO COMMON CARRIERS
23 AND NONPROFIT ORGANIZATIONS.—Notwith-
24 standing section 4, 5(a)(2), or 6 of the Federal
25 Trade Commission Act (15 U.S.C. 44, 45(a)(2),

1 46) or any jurisdictional limitation of the Com-
2 mission, the Commission shall also enforce this
3 section and the regulations promulgated under
4 this section, in the manner provided under this
5 subsection, with respect to—

6 (i) common carriers subject to the
7 Communications Act of 1934 (47 U.S.C.
8 151 et seq.) and all Acts amendatory
9 thereof and supplementary thereto; and

10 (ii) organizations not organized to
11 carry on business for their own profit or
12 that of their members.

13 (3) RULEMAKING.—The Commission may pro-
14 mulgate in accordance with section 553 of title 5,
15 United States Code, such rules as may be necessary
16 to carry out this section.

17 (4) EFFECT ON OTHER LAWS.—Nothing in this
18 section shall be construed in any way to limit the
19 authority of the Commission under any other provi-
20 sion of law.

21 **SEC. 4. PRICE GOUGING HOTLINE.**

22 The Commission shall establish a telephone hotline
23 and an online mechanism to enable the public to report
24 price gouging complaints, which shall be activated in an-
25 ticipation of or during a natural disaster, pandemic, or

1 state of emergency and shall remain operational until 120
2 days after the conclusion of such disaster, pandemic, or
3 state of emergency.

4 **SEC. 5. NO PREEMPTION OF STATE LAW.**

5 Nothing in this Act preempts any State law.