

117TH CONGRESS  
2D SESSION

# H. R. 9284

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.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 10, 2022

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

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## 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”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

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

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

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

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

24          (5) STATE OF EMERGENCY.—The term “state  
25 of emergency” means any state of emergency or dis-

1       aster declared by the President or by the govern-  
2       ment of any State or territory of the United States.

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

13 **SEC. 3. FEDERAL TRADE COMMISSION ENFORCEMENT**  
14 **AGAINST PRICE GOUGING.**

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

20       (b) ENFORCEMENT.—

21           (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
22      TICES.—A violation of this section or a regulation  
23      promulgated under this section shall be treated as a  
24      violation of a rule defining an unfair or deceptive act  
25      or practice prescribed under section 18(a)(1)(B) of

1 the Federal Trade Commission Act (15 U.S.C.  
2 57a(a)(1)(B)).

3 (2) POWERS OF THE COMMISSION.—

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

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

20 (C) APPLICATION TO COMMON CARRIERS  
21 AND NONPROFIT ORGANIZATIONS.—Notwith-  
22 standing section 4, 5(a)(2), or 6 of the Federal  
23 Trade Commission Act (15 U.S.C. 44, 45(a)(2),  
24 46) or any jurisdictional limitation of the Com-  
25 mission, the Commission shall also enforce this

1 section and the regulations promulgated under  
2 this section, in the manner provided under this  
3 subsection, with respect to—

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

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

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

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

19 **SEC. 4. PRICE GOUGING HOTLINE.**

20 The Commission shall establish a telephone hotline  
21 and an online mechanism to enable the public to report  
22 price gouging complaints, which shall be activated in an-  
23 ticipation of or during a natural disaster, pandemic, or  
24 state of emergency and shall remain operational until 120

1 days after the conclusion of such disaster, pandemic, or  
2 state of emergency.

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

4 Nothing in this Act preempts any State law.

