

117TH CONGRESS
2D SESSION

S. 3839

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 SENATE OF THE UNITED STATES

MARCH 15, 2022

Ms. KLOBUCHAR (for herself, Mr. BLUMENTHAL, Ms. CORTEZ MASTO, and Ms. HIRONO) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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) ESSENTIAL GOOD OR SERVICE.—The term
4 “essential good or service” means any good or serv-
5 ice that may be used to preserve, protect, or sustain
6 the health, safety, or welfare of members of the pub-
7 lic from potential harms resulting from a natural
8 disaster, a pandemic, or the circumstances giving
9 rise to a state of emergency.

10 (3) NATURAL DISASTER.—The term “natural
11 disaster” means a disaster, catastrophe, or emer-
12 gency, including flood, fire, earthquake, storm, or
13 other serious act of nature, which threatens the
14 health, safety, or welfare of the public.

15 (4) STATE OF EMERGENCY.—The term “state
16 of emergency” means any state of emergency or dis-
17 aster declared by the President or by the govern-
18 ment of any State or territory of the United States.

19 (5) UNCONSCIONABLY EXCESSIVE PRICE.—The
20 term “unconscionably excessive price” means a price
21 that represents a gross disparity between the price
22 of the essential good or service that is the subject
23 of an offer or transaction during, or in anticipation
24 of, a natural disaster, pandemic, or state of emer-
25 gency and the average price at which such essential

1 good or service was offered in the ordinary course of
 2 business prior to any public anticipation of a natural
 3 disaster, pandemic, or state of emergency.

4 **SEC. 3. FEDERAL TRADE COMMISSION ENFORCEMENT**
 5 **AGAINST PRICE GOUGING.**

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

11 (b) ENFORCEMENT.—

12 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
 13 TICES.—A violation of this section or a regulation
 14 promulgated under this section shall be treated as a
 15 violation of a rule defining an unfair or deceptive act
 16 or practice prescribed under section 18(a)(1)(B) of
 17 the Federal Trade Commission Act (15 U.S.C.
 18 57a(a)(1)(B)).

19 (2) POWERS OF THE COMMISSION.—

20 (A) IN GENERAL.—Except as otherwise
 21 provided in subparagraph (C), the Commission
 22 shall enforce this section and the regulations
 23 promulgated under this section in the same
 24 manner, by the same means, and with the same
 25 jurisdiction, powers, and duties as though all

1 applicable terms and provisions of the Federal
2 Trade Commission Act (15 U.S.C. 41 et seq.)
3 were incorporated into and made a part of this
4 section.

5 (B) PRIVILEGES AND IMMUNITIES.—Any
6 person who violates this section or a regulation
7 promulgated under this section shall be subject
8 to the penalties, and entitled to the privileges
9 and immunities, provided in the Federal Trade
10 Commission Act (15 U.S.C. 41 et seq.).

11 (C) APPLICATION TO COMMON CARRIERS
12 AND NONPROFIT ORGANIZATIONS.—Notwith-
13 standing section 4, 5(a)(2), or 6 of the Federal
14 Trade Commission Act (15 U.S.C. 44, 45(a)(2),
15 46) or any jurisdictional limitation of the Com-
16 mission, the Commission shall also enforce this
17 section and the regulations promulgated under
18 this section, in the manner provided under this
19 subsection, with respect to—

20 (i) common carriers subject to the
21 Communications Act of 1934 (47 U.S.C.
22 151 et seq.) and all Acts amendatory
23 thereof and supplementary thereto; and

1 (ii) organizations not organized to
 2 carry on business for their own profit or
 3 that of their members.

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

8 (4) EFFECT ON OTHER LAWS.—Nothing in this
 9 section shall be construed in any way to limit the
 10 authority of the Commission under any other provi-
 11 sion of law.

12 **SEC. 4. PRICE GOUGING HOTLINE.**

13 The Commission shall establish a telephone hotline
 14 and an online mechanism to enable the public to report
 15 price gouging complaints, which shall be activated in an-
 16 ticipation of or during a natural disaster, pandemic, or
 17 state of emergency and shall remain operational until 120
 18 days after the conclusion of such disaster, pandemic, or
 19 state of emergency.

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

21 Nothing in this Act preempts any State law.

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