

115TH CONGRESS
1ST SESSION

H. R. 4196

To prohibit price gouging after a major disaster, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 31, 2017

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

A BILL

To prohibit price gouging after a major disaster, 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 “Stop Targeting Ameri-
5 cans in Natural Disasters with Unconscionable Prices Act
6 of 2017” or the “STAND UP Act of 2017”.

7 **SEC. 2. PREVENTION OF PRICE GOUGING.**

8 (a) IN GENERAL.—During the 180-day period begin-
9 ning on the date on which a major disaster is declared
10 by the President, it shall be unlawful for any person to

1 sell or offer for sale a consumer good or service in an af-
2 fected area at a price that—

3 (1) is unconscionably excessive; and

4 (2) indicates the seller is taking unfair advan-
5 tage of the circumstances related to a major disaster
6 to increase prices unreasonably.

7 (b) FACTORS FOR CONSIDERATION.—In determining
8 whether a person has violated subsection (a), there shall
9 be taken into account, with respect to the price at which
10 such person sold or offered for sale the consumer good
11 or service, factors that include the following:

12 (1) Whether such price grossly exceeds the av-
13 erage price at which the same or a similar consumer
14 good or service was sold or offered for sale by such
15 person in the affected area—

16 (A) during the 90-day period immediately
17 preceding the 180-day period described in such
18 subsection; or

19 (B) during the same 180-day period of the
20 previous year.

21 (2) Whether such price grossly exceeds the av-
22 erage price at which the same or a similar consumer
23 good or service was readily obtainable from other
24 similarly situated competing sellers in the affected

1 area during the 180-day period described in such
2 subsection.

3 (3) Whether such price reasonably reflects addi-
4 tional costs, not within the control of such person,
5 that were paid, incurred, or reasonably anticipated
6 by such person, or reasonably reflects the profit-
7 ability of forgone sales or additional risks taken by
8 such person, to produce, distribute, obtain, or sell
9 such consumer good or service under the cir-
10 cumstances.

11 (4) Whether such price is substantially attrib-
12 utable to local, regional, national, or international
13 market conditions.

14 **SEC. 3. ENFORCEMENT.**

15 (a) ENFORCEMENT BY FEDERAL TRADE COMMIS-
16 SION.—

17 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
18 TICES.—A violation of section 2 shall be treated as
19 a violation of a regulation under section 18(a)(1)(B)
20 of the Federal Trade Commission Act (15 U.S.C.
21 57a(a)(1)(B)) regarding unfair or deceptive acts or
22 practices.

23 (2) POWERS OF COMMISSION.—The Commis-
24 sion shall enforce section 2 in the same manner, by
25 the same means, and with the same jurisdiction,

1 powers, and duties as though all applicable terms
2 and provisions of the Federal Trade Commission Act
3 (15 U.S.C. 41 et seq.) were incorporated into and
4 made a part of this Act. Any person who violates
5 such section shall be subject to the penalties and en-
6 titled to the privileges and immunities provided in
7 the Federal Trade Commission Act.

8 (b) EFFECT ON OTHER LAWS.—Nothing in this Act
9 shall be construed in any way to limit or affect the author-
10 ity of the Commission under any other provision of law.

11 (c) ENFORCEMENT BY STATE ATTORNEYS GEN-
12 ERAL.—

13 (1) IN GENERAL.—If the chief law enforcement
14 officer of a State, or an official or agency designated
15 by a State, has reason to believe that any person has
16 violated or is violating section 2, the attorney gen-
17 eral, official, or agency of the State, in addition to
18 any authority it may have to bring an action in
19 State court under its consumer protection law, may
20 bring a civil action in any appropriate United States
21 district court or in any other court of competent ju-
22 risdiction, including a State court, to—

23 (A) enjoin further such violation by such
24 person;

25 (B) enforce compliance with such section;

1 (C) obtain civil penalties; and

2 (D) obtain damages, restitution, or other
3 compensation on behalf of residents of the
4 State.

5 (2) NOTICE AND INTERVENTION BY THE
6 FTC.—The attorney general of a State shall provide
7 prior written notice of any action under paragraph
8 (1) to the Commission and provide the Commission
9 with a copy of the complaint in the action, except in
10 any case in which such prior notice is not feasible,
11 in which case the attorney general shall serve such
12 notice immediately upon instituting such action. The
13 Commission shall have the right—

14 (A) to intervene in the action;

15 (B) upon so intervening, to be heard on all
16 matters arising therein; and

17 (C) to file petitions for appeal.

18 (3) LIMITATION ON STATE ACTION WHILE FED-
19 ERAL ACTION IS PENDING.—If the Commission has
20 instituted a civil action for violation of this Act, no
21 State attorney general, or official or agency of a
22 State, may bring an action under this subsection
23 during the pendency of that action against any de-
24 fendant named in the complaint of the Commission
25 for any violation of this Act alleged in the complaint.

1 (4) RELATIONSHIP WITH STATE-LAW CLAIMS.—

2 If the attorney general of a State has authority to
3 bring an action under State law directed at acts or
4 practices that also violate this Act, the attorney gen-
5 eral may assert the State-law claim and a claim
6 under this Act in the same civil action.

7 (d) SAVINGS CLAUSE.—Nothing in this Act shall pre-
8 empt or otherwise affect any State or local law.

9 **SEC. 4. DEFINITIONS.**

10 In this Act:

11 (1) AFFECTED AREA.—The term “affected
12 area” means an area affected by a major disaster
13 declared by the President under the Robert T. Staf-
14 ford Disaster Relief and Emergency Assistance Act
15 (42 U.S.C. 5121 et seq.).

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

18 (3) CONSUMER GOOD OR SERVICE.—The term
19 “consumer good or service”—

20 (A) means a good, piece of equipment, or
21 service provided primarily for personal, family,
22 or household purposes, including food, water,
23 ice, a chemical, a building supply, a tool, a pe-
24 troleum product, residential construction, recon-
25 struction, repair service, or a service for the re-

1 moval of debris (including a damaged tree) or
2 garbage; and

3 (B) includes a property or a facility rented
4 to a consumer for use as a residence or storage
5 facility.

6 (4) MAJOR DISASTER.—The term “major dis-
7 aster” has the meaning given that term in section
8 102 of the Robert T. Stafford Disaster Relief and
9 Emergency Assistance Act (42 U.S.C. 5122).

10 (5) STATE.—The term “State” means each of
11 the several States, the District of Columbia, each
12 commonwealth, territory, or possession of the United
13 States, and each federally recognized Indian Tribe.

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