

117TH CONGRESS
2D SESSION

S. 4145

To amend section 13 of the Federal Trade Commission Act to provide for equitable relief, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 4, 2022

Ms. CANTWELL (for herself, Ms. KLOBUCHAR, Mr. WARNOCK, and Mr. LUJÁN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend section 13 of the Federal Trade Commission Act to provide for equitable relief, 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 “Consumer Protection
5 Remedies Act of 2022”.

6 **SEC. 2. AMENDMENTS TO THE FEDERAL TRADE COMMIS-**
7 **SION ACT.**

8 (a) IN GENERAL.—Section 13 of the Federal Trade
9 Commission Act (15 U.S.C. 53) is amended—

10 (1) in subsection (b)—

1 (A) in paragraph (1), by striking “is vio-
2 lating, or is about to violate,” and inserting
3 “has violated, is violating, or is about to vio-
4 late”;

5 (B) in paragraph (2)—

6 (i) by inserting “either (A)” before
7 “the enjoining thereof”; and

8 (ii) by inserting “or (B) the perma-
9 nent enjoining thereof or the ordering of
10 an equitable remedy under subsection (e)”
11 after “final,”; and

12 (C) in the flush text following paragraph
13 (2)—

14 (i) by striking “to enjoin any such act
15 or practice” and inserting “to obtain such
16 injunction or remedy”;

17 (ii) by striking “Upon a proper show-
18 ing that” and inserting “In a case brought
19 under paragraph (2)(A), upon a proper
20 showing that”;

21 (iii) by striking “such action” and in-
22 sserting “a temporary restraining order or
23 preliminary injunction”;

24 (iv) by striking “without bond”;

1 (v) by striking “That in proper cases
 2 the Commission may seek, and after prop-
 3 er proof, the court may issue, a permanent
 4 injunction” and inserting “That in a case
 5 brought under paragraph (2)(B), after
 6 proper proof and upon a showing that a
 7 permanent injunction or equitable remedy
 8 under subsection (e) would be in the public
 9 interest, the court may issue a permanent
 10 injunction, an equitable remedy under sub-
 11 section (e), or any other relief as the court
 12 determines to be just and proper, including
 13 temporary or preliminary equitable relief”;

14 (vi) by striking “Any suit may” and
 15 inserting “Any suit under paragraph (2)
 16 may”; and

17 (vii) by striking “any suit under this
 18 section” and inserting “any such suit”;
 19 and

20 (2) by adding at the end the following new sub-
 21 section:

22 “(e) EQUITABLE REMEDIES.—

23 “(1) RESTITUTION; CONTRACT RESCISSION AND
 24 REFORMATION.—

1 “(A) IN GENERAL.—In a suit brought
2 under subsection (b)(2)(B) with respect to a
3 violation of a provision of law enforced by the
4 Commission, the Commission may seek, and the
5 court may order—

6 “(i) restitution for consumer loss re-
7 sulting from such violation;

8 “(ii) rescission or reformation of con-
9 tracts; and

10 “(iii) the refund of money or return of
11 property.

12 “(B) LIMITATIONS PERIOD.—Relief under
13 this paragraph shall not be available for a claim
14 arising more than 10 years before the filing of
15 the Commission’s suit under subsection
16 (b)(2)(B) with respect to the violation that gave
17 rise to the claim.

18 “(2) DISGORGEMENT.—

19 “(A) IN GENERAL.—In a suit brought
20 under subsection (b)(2)(B) with respect to a
21 violation of a provision of law enforced by the
22 Commission, the Commission may seek, and the
23 court may order, disgorgement of any unjust
24 enrichment that a person, partnership, or cor-
25 poration obtained as a result of that violation.

1 “(B) CALCULATION.—Any disgorgement
2 that is ordered with respect to a person, part-
3 nership, or corporation under subparagraph (A)
4 shall be offset by any amount of restitution that
5 the person, partnership, or corporation is or-
6 dered to pay under paragraph (1).

7 “(C) LIMITATIONS PERIOD.—
8 Disgorgement under this paragraph shall be
9 limited to any unjust enrichment a person,
10 partnership, or corporation obtained in the 10
11 years preceding the filing of the Commission’s
12 suit under subsection (b)(2)(B) with respect to
13 the violation that resulted in such unjust en-
14 richment.

15 “(3) CALCULATION OF LIMITATIONS PERI-
16 ODS.—For purposes of calculating any limitations
17 period with respect to a claim for relief under para-
18 graph (1) or a disgorgement order under paragraph
19 (2), any time in which a person, partnership, or cor-
20 poration against which such relief or order is sought
21 is outside the United States shall not be counted for
22 purposes of calculating such period.”.

23 (b) CONFORMING AND TECHNICAL AMENDMENTS.—
24 Section 16(a)(2) of the Federal Trade Commission Act
25 (15 U.S.C. 56(a)(2)) is amended—

1 (1) in subparagraph (A), by striking “(relating
2 to injunctive relief)”;

3 (2) in subparagraph (B), by striking “(relating
4 to consumer redress)”; and

5 (3) in subparagraph (D), by striking “subpena”
6 and inserting “subpoena”.

7 (c) APPLICABILITY.—The amendments made by this
8 section shall apply with respect to any action or pro-
9 ceeding that is commenced on or after the date of enact-
10 ment of this Act.

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