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(Original Signature of Member)

119TH CONGRESS  
2D SESSION

# H. R.

To strengthen the prohibition on price discrimination under the Clayton Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Ms. PEREZ introduced the following bill; which was referred to the Committee on \_\_\_\_\_

# A BILL

To strengthen the prohibition on price discrimination under the Clayton Act, 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 “Fair Prices for Local  
5 Businesses Act”.

6 **SEC. 2. CLAYTON ACT AMENDMENTS.**

7 (a) IN GENERAL.—The Clayton Act (15 U.S.C. 12  
8 et seq.) is amended—

9 (1) in section 2 (15 U.S.C. 13)—

1 (A) in subsection (a)—

2 (i) by striking “in commerce” each  
3 place it appears and inserting “in com-  
4 merce or in any activity affecting com-  
5 merce”;

6 (ii) by striking “commodities” each  
7 place it appears and inserting “products or  
8 services”;

9 (iii) by inserting “service provision,”  
10 after “sale,”;

11 (iv) by striking “goods, wares, or mer-  
12 chandise” and inserting “products or serv-  
13 ices”;

14 (v) by striking “goods” each place it  
15 appears and inserting “products or serv-  
16 ices”; and

17 (vi) by inserting “functional discounts  
18 or” after “due allowance for”;

19 (B) in subsection (b)—

20 (i) by inserting “including a person  
21 charged with inducing or receiving such  
22 discrimination,” after “person charged  
23 with a violation of this section,”; and

24 (ii) by striking “: *Provided, however,*  
25 That nothing herein contained shall pre-

1 vent a seller rebutting the prima-facie case  
2 thus made by showing that his lower price  
3 or the furnishing of services or facilities to  
4 any purchaser or purchasers was made in  
5 good faith to meet an equally low price of  
6 a competitor, or the services or facilities  
7 furnished by a competitor”;

8 (C) in subsection (c)—

9 (i) by striking “in commerce” and in-  
10 sserting “in commerce or in any activity af-  
11 fecting commerce”; and

12 (ii) by striking “goods, wares, or mer-  
13 chandise” and inserting “products or serv-  
14 ices”;

15 (D) in subsection (d)—

16 (i) by striking “in commerce” and in-  
17 sserting “in commerce or in any activity af-  
18 fecting commerce”; and

19 (ii) by striking “products or commod-  
20 ities” each place it appears and inserting  
21 “products or services”;

22 (E) in subsection (e)—

23 (i) by inserting “engaged in commerce  
24 or in any activity affecting commerce”  
25 after “any person”; and

1 (ii) by striking “commodity” each  
2 place it appears and inserting “product or  
3 service”;

4 (F) by amending subsection (f) to read as  
5 follows:

6 “(f)(1) Subject to paragraph (2), it shall be unlawful  
7 for any person engaged in commerce or in any activity  
8 affecting commerce, in the course of such commerce or  
9 in the course of any activity affecting commerce, to induce  
10 or receive the benefit of any violation of this section.

11 “(2) In the case of a person with annual retail sales  
12 that do not exceed \$100,000,000,000, paragraph (1) shall  
13 only apply if the person knowingly induced or received the  
14 benefit of the violation of this section.”; and

15 (G) by adding at the end the following:

16 “(g) For purposes of this section—

17 “(1) the term ‘purchase’ means to pay or grant  
18 anything of value in exchange for a product or serv-  
19 ice; and

20 “(2) the term ‘purchaser’ means a person who  
21 pays or grants anything of value in exchange for a  
22 product or service, whether or not—

23 “(A) title passes to the payor or grantor;  
24 and

1           “(B) the payor or grantor exercises domin-  
2           ion or control over the product or service.”; and  
3           (2) in section 4 (15 U.S.C. 15)—

4           (A) in subsection (a), by inserting “and  
5           (c)” after “Except as provided in subsection  
6           (b)”;

7           (B) by redesignating subsection (c) as sub-  
8           section (d); and

9           (C) by inserting after subsection (b) the  
10          following:

11          “(c) In an action brought with respect to a violation  
12          of any subsection of section 2, the plaintiff, upon a show-  
13          ing of proof that the plaintiff has been unlawfully discrimi-  
14          nated against by the defendant—

15               “(1) shall conclusively be presumed to have sus-  
16               tained injury and damages equal to the monetary  
17               amount or equivalent of the unlawful discrimination;  
18               and

19               “(2) may establish damages in addition to the  
20               damages described in paragraph (1), if any, that the  
21               plaintiff sustained as a result of the discrimina-  
22               tion.”.

23          (b) **APPLICABILITY.**—The amendments made by this  
24          Act shall apply to transactions occurring on or after the  
25          date of enactment of this Act.