

# **No GOUGE Act**

## *Section-by-Section*

**Section 1.** Short title.

**Section 2.** Definitions.

This section lays key definitions for the bill, including what constitutes a tariffed good, a planned tariff, and a tariff-related shock. As defined, tariffed good include both final goods imported for sale in the United States, goods with imported components assembled in the United States for final sale, and imported components for such a good. A tariff-related shock date is defined as new tariffs, planned tariffs, or tariff rate changes to at least 5 tariff lines or an increase or decrease to a tariff line of more than 25%.

**Section 3.** Price gouging prohibited.

*Paragraph (a):*

This paragraph establishes a ban on selling a tariffed good at an unreasonably high price during the five-year period following the announcement or imposition of a tariff or tariff rate change.

This paragraph defines “unreasonably high price” as a price increase greater than the costs directly generated by the tariff, but allows for the incorporation of certain additional costs unrelated to the tariff (e.g., increased labor costs) into a price increase. This applies to final goods, goods assembled in the United States, and to components, and to both imposed and planned tariffs. A baseline price determination period of the average price of a good in the preceding 180 days is established for determining an unreasonably high price.

*Paragraph (b):*

This paragraph establishes a small business exemption to the ban in paragraph (a) for businesses earning less than \$100 million (adjusted annually for inflation) in gross revenue from goods sold in the United States in the year prior to the sale of the good in question.

*Paragraph (c):*

This paragraph establishes a rebuttable presumptive violation of this section during a tariff-related shock for entities with unfair leverage in the market. Unfair leverage is characterized as earning greater than \$1 billion (adjusted annually for inflation) in gross revenue from goods sold in the United States in the year prior to the sale of the good in question or another characteristic as set forth in regulation by the FTC. This paragraph also requires the FTC to consider, in promulgating these regulations, the capacity of a company to absorb the costs generated by the tariff (instead of passing them along to consumers or other businesses in the supply chain) or to increase production of a substitutable good in the United States.

*Paragraph (d):*

This paragraph allows the FTC to promulgate such regulations as may be necessary to carry out this section and requires the FTC to consult with USTR, ITC, CBP, and BLS in developing those regulations.

*Paragraph (e):*

This paragraph covers enforcement of this section by the FTC – violations of this section or its regulations are treated as unfair or deceptive acts or practices under the *Federal Trade Commission Act*.

*Paragraph (f):*

This paragraph covers enforcement by states. It allows for state attorneys general to sue in state or district court with notice to the FTC and preserves the FTC's right to intervene in actions brought by state AGs.

*Paragraph (g):*

Nothing in this section may be construed to preempt or otherwise affect any State or local law.

*Paragraph (h):*

This paragraph requires the establishment of a consumer reporting mechanism for violations of this section, including via telephone, Internet, and mail. This requirement does not preclude the FTC from unilaterally initiating investigations under this section.

**Section 4. Reports.**

This section requires a joint ITC and BLS report on the prices of goods sold by any company subject to the unfair leverage revenue threshold as defined above, with a focus on identifying changes in the prices of tariffed goods. It also directs BLS to determine whether its current surveys are sufficient to provide the data necessary to make such a report, and if not, to develop and include in its surveys new questions to collect that data.

This section also requires a report by the FTC on enforcement activities under this Act, including an assessment of the impact of enforcement on consumer prices.