

Union Calendar No. 64

117TH CONGRESS
1ST SESSION

H. R. 2668

[Report No. 117–90, Part I]

To amend the Federal Trade Commission Act to affirmatively confirm the authority of the Federal Trade Commission to seek permanent injunctions and other equitable relief for violations of any provision of law enforced by the Commission.

IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 2021

Mr. CÁRDENAS (for himself, Ms. SCHAKOWSKY, Mr. PALLONE, Mr. RUSH, Ms. CASTOR of Florida, Mrs. TRAHAN, Mr. MCNERNEY, Ms. CLARKE of New York, Mrs. DINGELL, Ms. KELLY of Illinois, Mr. SOTO, Miss RICE of New York, Ms. CRAIG, and Mrs. FLETCHER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JULY 16, 2021

Additional sponsors: Ms. NORTON, Mr. TAKANO, Mr. KRISHNAMOORTHY, Mr. TONKO, and Ms. BONAMICI

JULY 16, 2021

Reported from the Committee on Energy and Commerce with an amendment
[Strike out all after the enacting clause and insert the part printed in italic]

JULY 16, 2021

Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on April 20, 2021]

A BILL

To amend the Federal Trade Commission Act to affirmatively confirm the authority of the Federal Trade Commission to seek permanent injunctions and other equitable relief for violations of any provision of law enforced by the Commission.

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 *and Recovery Act”.*

6 **SEC. 2. FTC AUTHORITY TO SEEK PERMANENT INJUNC-**
7 **TIONS AND OTHER EQUITABLE RELIEF.**

8 (a) *PERMANENT INJUNCTIONS AND OTHER EQUI-*
9 *TABLE RELIEF.*—*Section 13 of the Federal Trade Commis-*
10 *sion Act (15 U.S.C. 53) is amended—*

11 (1) *in subsection (b)—*

12 (A) *in paragraph (1), by inserting “has*
13 *violated,” after “corporation”;*

14 (B) *in paragraph (2)—*

15 (i) *by striking “that” and inserting*
16 *“that either (A)”;* and

17 (ii) *by striking “final,” and inserting*
18 *“final; or (B) the permanent enjoining*
19 *thereof or the ordering of equitable relief*
20 *under subsection (e),”;* and

21 (C) *in the matter following paragraph*

22 (2)—

23 (i) *by striking “to enjoin any such act*
24 *or practice”;*

1 (ii) by striking “Upon” and inserting

2 “*In a suit under paragraph (2)(A), upon*”;

3 (iii) by striking “without bond”;

4 (iv) by striking “proper cases” and in-
5 serting “*a suit under paragraph (2)(B)*”;

6 (v) by striking “injunction.” and in-
7 serting “*injunction, equitable relief under*
8 *subsection (e), or such other relief as the*
9 *court determines to be just and proper, in-*
10 *cluding temporary or preliminary equitable*
11 *relief.*”;

12 (vi) by striking “Any suit” and insert-
13 ing “*Any suit under this subsection*”; and

14 (vii) by striking “In any suit under
15 this section” and inserting “*In any such*
16 *suit*”; and

17 (2) by adding at the end the following:

18 “(e) *EQUITABLE RELIEF.—*

19 “(1) *RESTITUTION; CONTRACT RESCISSION AND*
20 *REFORMATION; REFUNDS; RETURN OF PROPERTY.—In*
21 *a suit brought under subsection (b)(2)(B), the Com-*
22 *mission may seek, and the court may order, with re-*
23 *spect to the violation that gives rise to the suit, res-*
24 *titution for losses, rescission or reformation of con-*
25 *tracts, refund of money, or return of property.*

1 “(2) *DISGORGEMENT.*—*In a suit brought under*
2 *subsection (b)(2)(B), the Commission may seek, and*
3 *the court may order, disgorgement of any unjust en-*
4 *richment that a person, partnership, or corporation*
5 *obtained as a result of the violation that gives rise to*
6 *the suit.*

7 “(3) *CALCULATION.*—*Any amount that a person,*
8 *partnership, or corporation is ordered to pay under*
9 *paragraph (2) with respect to a violation shall be off-*
10 *set by any amount such person, partnership, or cor-*
11 *poration is ordered to pay, and the value of any*
12 *property such person, partnership, or corporation is*
13 *ordered to return, under paragraph (1) with respect*
14 *to such violation.*

15 “(4) *LIMITATIONS PERIOD.*—

16 “(A) *IN GENERAL.*—*A court may not order*
17 *equitable relief under this subsection with respect*
18 *to any violation occurring before the period that*
19 *begins on the date that is 10 years before the*
20 *date on which the Commission files the suit in*
21 *which such relief is sought.*

22 “(B) *CALCULATION.*—*For purposes of calcu-*
23 *lating the beginning of the period described in*
24 *subparagraph (A), any time during which an*
25 *individual against which the equitable relief is*

1 *sought is outside of the United States shall not*
2 *be counted.”.*

3 **(b) CONFORMING AMENDMENT.**—*Section 16(a)(2)(A)*
4 *of the Federal Trade Commission Act (15 U.S.C.*
5 *56(a)(2)(A)) is amended by striking “(relating to injunctive*
6 *relief)”.*

7 **(c) APPLICABILITY.**—*The amendments made by this*
8 *section shall apply with respect to any action or proceeding*
9 *that is pending on, or commenced on or after, the date of*
10 *the enactment of this Act.*

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