

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 128

To make it an unfair practice for any retailer to increase the price of certain consumer commodities once the retailer marks the price on any such consumer commodity, and to permit the Federal Trade Commission to order any such retailer to refund any amounts of money obtained by so increasing the price of such consumer commodity.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mrs. COLLINS of Illinois introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To make it an unfair practice for any retailer to increase the price of certain consumer commodities once the retailer marks the price on any such consumer commodity, and to permit the Federal Trade Commission to order any such retailer to refund any amounts of money obtained by so increasing the price of such consumer commodity.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That (a) it shall be a violation of section 5(a)(1) of the  
4       Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for  
5       any person, partnership, or corporation—

1           (1) engaging in the sale at retail of any  
2           consumer commodity which has been distributed in  
3           commerce; and

4           (2) having the authority to set the price for any  
5           consumer commodity,

6 to increase the price for such consumer commodity once  
7 a price is affixed by such person, partnership, or corpora-  
8 tion to any such commodity. To enforce this subsection,  
9 the Federal Trade Commission shall by regulation require  
10 persons, partnerships, and corporations engaged in the re-  
11 tail sale of consumer commodities to establish a system  
12 to audit the prices at which the commodities are first of-  
13 fered for sale and the prices at which the commodities are  
14 sold.

15         (b)(1) In addition to the authority of the Federal  
16 Trade Commission to issue a cease and desist order pursu-  
17 ant to the provisions of section 5(b) of the Federal Trade  
18 Commission Act (15 U.S.C. 45(b)) against a person, part-  
19 nership, or corporation described in subsection (a), the  
20 Commission may also order the restitution of moneys re-  
21 ceived by any person, partnership, or corporation in viola-  
22 tion of subsection (a).

23         (2) Any order issued pursuant to the provisions of  
24 paragraph (1) shall be subject to the review procedures

1 of section 5 of the Federal Trade Commission Act (15  
2 U.S.C. 45).

3 (c) The Federal Trade Commission shall, by rule,  
4 prescribe procedures with respect to the restitution of  
5 moneys which may be ordered pursuant to subsection (b).

6 SEC. 2. Nothing in this Act shall be deemed to invali-  
7 date or restrict any right or remedy pursuant to any State  
8 law of any person who purchases any consumer commod-  
9 ity.

10 SEC. 3. For purposes of this Act—

11 (1) The term “commerce” means commerce,  
12 trade, traffic, transmission, or transportation—

13 (A) between a place in a State and any  
14 place outside thereof; or

15 (B) which affects commerce, trade, traffic,  
16 transmission, or transportation described in  
17 subparagraph (A).

18 (2) The term “consumer commodity” means  
19 any food, drug, device, or cosmetic (as such terms  
20 are defined by the Federal Food, Drug, and Cos-  
21 metic Act (21 U.S.C. 321)), and any other article,  
22 product, or commodity of any kind or class which is  
23 customarily produced or distributed for sale through  
24 retail sales agencies or instrumentalities for con-  
25 sumption by individuals or for use by individuals for

1 purposes of personal care in the performance of  
2 services ordinarily rendered within the household,  
3 and which usually is consumed or expended in the  
4 course of such consumption or use.

5 (3) The term “State” means a State, the Dis-  
6 trict of Columbia, the Commonwealth of Puerto  
7 Rico, or any possession of the United States.

8 SEC. 4. The provisions of this Act shall apply to the  
9 pricing by any person, partnership, or corporation of any  
10 consumer commodity which is sold on or after the date  
11 of enactment of this Act.

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