

AMENDMENT TO
RULES COMMITTEE PRINT 117-54
OFFERED BY MS. SPEIER OF CALIFORNIA

At the end of title LVIII of division E, insert the following:

1 **SEC. 5806. PROHIBITION ON GENDER-BASED PRICING OF**
2 **CONSUMER PRODUCTS AND SERVICES.**

3 (a) **PROHIBITED PRACTICES.—**

4 (1) **CONSUMER PRODUCTS.—**It shall be unlaw-
5 ful for any person to sell or offer for sale in inter-
6 state commerce any two consumer products from the
7 same manufacturer that are substantially similar if
8 such products are priced differently based on the
9 gender of the individuals for whose use the products
10 are intended or marketed.

11 (2) **SERVICES.—**It shall be unlawful for any
12 person to sell or offer for sale any services that are
13 substantially similar if such services are priced dif-
14 ferently based on the gender of the individuals for
15 which the services are performed, offered, or mar-
16 keted.

17 (b) **ENFORCEMENT BY THE COMMISSION.—**

1 (1) UNFAIR AND DECEPTIVE ACT OR PRAC-
2 TICE.—A violation of subsection (a) shall be treated
3 as a violation of a rule prescribed under section
4 18(a)(1)(B) of the Federal Trade Commission Act
5 (15 U.S.C. 57a(a)(1)(B)) defining an unfair or de-
6 ceptive act or practice in or affecting interstate com-
7 merce.

8 (2) POWERS OF THE COMMISSION.—The Fed-
9 eral Trade Commission shall enforce this section in
10 the same manner, by the same means, and with the
11 same jurisdiction, powers, and duties as though all
12 applicable terms and provisions of the Federal Trade
13 Commission Act were incorporated into and made a
14 part of this Act.

15 (3) PRIVILEGES AND IMMUNITIES.—Any person
16 who violates subsection (a) shall be subject to the
17 penalties and entitled to the privileges and immuni-
18 ties provided in the Federal Trade Commission Act
19 (15 U.S.C. 41 et seq.).

20 (4) AUTHORITY PRESERVED.—Nothing in this
21 section shall be construed to limit the authority of
22 the Commission under any other provision of law.

23 (c) STATE ATTORNEYS GENERAL.—

24 (1) CIVIL ACTION.—In any case in which the
25 attorney general of a State has reason to believe

1 that an interest of the residents of the State has
2 been or is adversely affected by a violation of sub-
3 section (a), the attorney general may, as *parens*
4 *patriae*, bring a civil action on behalf of the resi-
5 dents of the State in an appropriate district court of
6 the United States—

7 (A) to enjoin further violation of such sub-
8 section by the defendant;

9 (B) to compel compliance with such sub-
10 section; or

11 (C) obtain damages, restitution, or other
12 compensation on behalf of residents of the
13 State.

14 (2) NOTICE TO THE COMMISSION.—

15 (A) NOTICE.—Except as provided in sub-
16 paragraph (C), the attorney general of a State
17 shall notify the Commission in writing that the
18 attorney general intends to bring a civil action
19 under paragraph (1) not later than 10 days be-
20 fore initiating the civil action.

21 (B) CONTENTS.—The notice required by
22 subparagraph (A) shall include a copy of the
23 complaint to be filed to initiate such civil ac-
24 tion.

1 (C) EXCEPTION.—If it is not feasible for
2 the attorney general of a State to provide the
3 notice required by subparagraph (A), the attor-
4 ney general shall notify the Commission imme-
5 diately upon instituting a civil action under
6 paragraph (1).

7 (3) INTERVENTION BY THE COMMISSION.—The
8 Commission may—

9 (A) intervene in any civil action brought by
10 the attorney general of a State under this sub-
11 section; and

12 (B) upon intervening, be heard on all mat-
13 ters arising in such civil action and file peti-
14 tions for appeal of a decision in such action.

15 (4) INVESTIGATORY POWERS.—Nothing in this
16 subsection may be construed to prevent the attorney
17 general of a State from exercising the powers con-
18 ferred on the attorney general by the laws of the
19 State to conduct investigations, to administer oaths
20 or affirmations, or to compel the attendance of wit-
21 nesses or the production of documentary or other
22 evidence.

23 (5) PREEMPTIVE ACTION BY THE COMMIS-
24 SION.—If the Commission institutes a civil action or
25 an administrative action for a violation of this sec-

1 tion, the attorney general of a State may not, during
2 the pendency of such action, bring a civil action
3 under this subsection against any defendant named
4 in the complaint of the Commission for the violation
5 with respect to which the Commission instituted
6 such action.

7 (6) ACTIONS BY OTHER STATE OFFICIALS.—

8 (A) IN GENERAL.—In addition to any civil
9 action brought by an attorney general under
10 paragraph (1), any other consumer protection
11 officer of a State who is authorized by the State
12 to do so may bring a civil action under para-
13 graph (1), subject to the same requirements
14 and limitations that apply under this subsection
15 to civil actions brought by an attorney general.

16 (B) SAVINGS PROVISION.—Nothing in this
17 subsection may be construed to prohibit an au-
18 thorized official of a State from initiating or
19 continuing any proceeding in a court of the
20 State for a violation of any civil or criminal law
21 of the State.

22 (d) RULES OF CONSTRUCTION.—

23 (1) SUBSTANTIALLY SIMILAR PRODUCTS.—For
24 purposes of this section, two consumer products are
25 substantially similar if there are no substantial dif-

1 ferences in the materials used in the product, the in-
2 tended use of the product, and the functional design
3 and features of the product. A difference in coloring
4 among any consumer products shall not be con-
5 strued as a substantial difference for purposes of
6 this paragraph.

7 (2) SUBSTANTIALLY SIMILAR SERVICES.—For
8 purposes of this section, two services are substan-
9 tially similar if there is no substantial difference in
10 the amount of time to provide the services, the dif-
11 ficulty in providing the services, or the cost of pro-
12 viding the services.

13 (e) DEFINITIONS.—In this section:

14 (1) COMMISSION.—The term “Commission”
15 means the Federal Trade Commission.

16 (2) CONSUMER PRODUCT.—The term “con-
17 sumer product”—

18 (A) has the meaning given such term in
19 section 3 of the Consumer Product Safety Act
20 (15 U.S.C. 2052);

21 (B) includes a device or cosmetics, as such
22 terms are defined in section 201 of the Federal
23 Food, Drug, and Cosmetic Act (21 U.S.C.
24 321); and

1 (C) includes a child restraint system, as
2 such term is defined in section 571.213 of title
3 49, Code of Federal Regulations.

