To prohibit unfair and deceptive advertising of rates for hotel rooms and other places of short-term lodging.

IN THE HOUSE OF REPRESENTATIVES

Ms. JOHNSON of Texas introduced the following bill; which was referred to the Committee on ______________________

A BILL

To prohibit unfair and deceptive advertising of rates for hotel rooms and other places of short-term lodging.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Hotel Advertising Transparency Act of 2019”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) As of the day before the date of the enactment of this Act, hotel rooms and other places of
lodging are often advertised at a rate and later in
the buying process mandatory fees are disclosed that
were not included in the advertised room rate.

(2) The mandatory fees described in paragraph
(1) are sometimes called by names such as “resort
fees”, “cleaning fees”, or “facility fees” and they are
all mandatory and charged by a place of short term
lodging in addition to advertised room rates.

(3) The number of short-term lodging facilities
that charged mandatory resort fees is growing.

(4) Advertising that does not reflect the true
mandatory cost of a stay at a place of short term
lodging is deceptive.

(5) The Federal Trade Commission has author-
ity under section 5 of the Federal Trade Commiss-
ion Act (15 U.S.C. 45) to regulate and prohibit un-
fair or deceptive acts or practices in or affecting
commerce.

(6) In 2012 and 2013, the Federal Trade Com-
mission exercised its authority under that section 5
of the to issue warning letters to 35 hotel operators
and 11 online travel agents. In those letters, the
Commission cautioned hotel operators and online
travel agents that mandatory resort fees could con-
fuse consumers in violation of section 5(a)(2) of such Act (15 U.S.C. 45(a)(2)).

(7) In 2017, an economist at the Federal Trade Commission published an issue paper that found that forcing consumers to click through additional webpages to see a hotel’s resort fee increases the time spent searching and learning the hotel’s price, and went on to state the following: “Separating the room rate from the resort fee increases the cognitive costs of remembering the hotel’s price. When it becomes more costly to search and evaluate an additional hotel, a consumer’s choice is either to incur higher total search and cognitive costs or to make an incomplete, less informed decision that may result in a more costly room, or both.”

SEC. 3. PROHIBITION ON UNFAIR AND DECEPTIVE ADVERTISING OF HOTEL ROOM RATES.

(a) Prohibition.—No person with respect to whom the Federal Trade Commission is empowered under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)) may advertise in interstate commerce a rate for a place of short-term lodging that does not include all required fees, excluding taxes and fees imposed by a government.
(b) Enforcement by Federal Trade Commission.—

(1) Unfair or Deceptive Acts or Practices.—A violation of subsection (a) by a person subject to such subsection shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) Powers of Commission.—

(A) In General.—The Federal Trade Commission shall enforce this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any person who violates this section shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(B) Rulemaking.—

(i) In General.—The Commission may promulgate such rules as the Commis-
tion considers appropriate to enforce this
section.

(ii) PROCEDURES.—The Commission
shall carry out any rulemaking under
clause (i) in accordance with section 553 of
title 5, United States Code.

(c) ENFORCEMENT BY STATES.—

(1) IN GENERAL.—In any case in which the at-
torney general of a State has reason to believe that
an interest of the residents of the State has been or
is threatened or adversely affected by the engage-
ment of any person subject to subsection (a) in a
practice that violates such subsection, the attorney
general of the State may, as parens patriae, bring
a civil action on behalf of the residents of the State
in an appropriate district court of the United States
to obtain appropriate relief.

(2) RIGHTS OF FEDERAL TRADE COMMI-
SSION.—

(A) NOTICE TO FEDERAL TRADE COMMI-
SSION.—

(i) IN GENERAL.—Except as provided
in clause (iii), the attorney general of a
State shall notify the Commission in writ-
ing that the attorney general intends to
bring a civil action under paragraph (1)

before initiating the civil action against a

person subject to subsection (a).

(ii) CONTENTS.—The notification re-

quired by clause (i) with respect to a civil

action shall include a copy of the complaint
to be filed to initiate the civil action.

(iii) EXCEPTION.—If it is not feasible

for the attorney general of a State to pro-

vide the notification required by clause (i)

before initiating a civil action under para-

graph (1), the attorney general shall notify

the Commission immediately upon insti-
tuting the civil action.

(B) INTERVENTION BY FEDERAL TRADE

COMMISSION.—The Commission may—

(i) intervene in any civil action

brought by the attorney general of a State

under paragraph (1) against a person de-
scribed in such paragraph; and

(ii) upon intervening—

(I) be heard on all matters aris-
ing in the civil action; and

(II) file petitions for appeal of a
decision in the civil action.
(3) INVESTIGATORY POWERS.—Nothing in this subsection may be construed to prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of the State to conduct investigations, to administer oaths or affirmations, or to compel the attendance of witnesses or the production of documentary or other evidence.

(4) EFFECT ON STATE COURT PROCEEDINGS.—Nothing in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(5) COORDINATION WITH FEDERAL TRADE COMMISSION.—If the Federal Trade Commission institutes a civil action or an administrative action with respect to a violation of subsection (a), the attorney general of a State shall coordinate with the Commission before bringing a civil action under paragraph (1) against any defendant named in the complaint of the Commission for the violation with respect to which the Commission instituted such action.

(6) VENUE; SERVICE OF PROCESS.—
(A) VENUE.—Any action brought under paragraph (1) may be brought in—

(i) the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code; or

(ii) another court of competent jurisdiction.

(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(7) ACTIONS BY OTHER STATE OFFICIALS.—

(A) IN GENERAL.—In addition to civil actions brought by attorneys general under paragraph (1), any other officer of a State who is authorized by the State to do so may bring a civil action under paragraph (1), subject to the same requirements and limitations that apply under this subsection to civil actions brought by attorneys general.

(B) SAVINGS PROVISION.—Nothing in this subsection may be construed to prohibit an authorized official of a State from initiating or
continuing any proceeding in a court of the State for a violation of any civil or criminal law of the State.

(d) DEFINITIONS.—As used in this Act—

(1) the term “place of short-term lodging” means a hotel, motel, inn, or other place of lodging that advertises at a rate that is a nightly, hourly, or weekly rate; and

(2) the term “State” includes any territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(e) EFFECTIVE DATE.—Subsection (a) shall take effect on the date that is 30 days after the date of enactment of this Act.