NATIONAL TAXPAYERS UNION

May 18, 2022

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NTU urges all Representatives to vote "NO" on H.R. 7688, the Consumer Fuel Price Gouging Prevention Act. This misguided legislation would pave the way for abuse of executive branch power without meaningfully addressing the drivers of high gas and energy prices. The lack of clear definitions and guardrails in this legislation could lead to far-reaching negative consequences for taxpayers and consumers.

High gas and energy prices are top of mind for Americans, and many are looking to Washington to ease the burden. As of May 17, the average gas price was more than $4.52 per gallon, 49 percent higher than the price was at the same time last year. Unfortunately, the Consumer Fuel Price Gouging Prevention Act would do nothing to address the problems consumers are facing at the pump. This legislation is sparse on specifics, and instead grants an already polarized Federal Trade Commission (FTC) broad authority to go after oil and gas companies while providing sweeping emergency powers to the executive branch. This is a recipe for abuse.

While this bill purports to prevent "unconscionably excessive" and "exploitative" pricing, there is no definition or reference to other parts of the law indicating what this actually means. In fact, H.R. 7688 fails to define nearly all of the practices or actions that would be deemed a violation if this bill were to be enacted into law. Given gas prices are notoriously volatile, allowing the FTC to enforce de facto price controls would be more likely to reduce supply rather than lower prices at the pump.

H.R. 7688 would give the president the ability to declare an "energy emergency" for 30 days for any geographic area, including up to the whole country, and this emergency declaration could be renewed indefinitely. There are also no limits or guidelines on the president's authority to define what constitutes an energy emergency, and the bill allows the president to unilaterally act without Congress. H.R. 7688 also grants state Attorneys General (AGs) enforcement power at the retail level. Especially in the leadup to political elections, this wide-ranging authority could easily be abused by a president or state AG of either party.

If the government deems an energy company to be in violation of these new laws, H.R. 7688 provides only for an affirmative defense for a business to argue that their price increases were reasonable. This "guilty until proven innocent" standard would already be difficult for a large energy company to prove, let alone for the many retail gas stations that are independently owned. At the very least, the government should be required to meet a high standard of proof that nefarious consumer abuse has taken place. While the rhetoric surrounding this legislation focuses on supposedly greedy corporations and "Big Oil," small, independent gas stations would also be caught up in the enforcement of this legislation.

There are several alternatives lawmakers should consider to provide short- and long-term relief for consumers. Disappointingly, as Americans are struggling with the effects of inflation, high gas prices, and supply chain constraints, this bill only signals to consumers that help is not on the way.

Roll call votes on H.R. 7688 will be included in NTU's annual Rating of Congress and a "NO" vote will be considered the pro-taxpayer position.

If you have any questions, please contact NTU Policy and Government Affairs Manager Will Yepez at wyepez@ntu.org.

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