To amend the Truth in Lending Act to establish a national usury rate for consumer credit transactions.

IN THE HOUSE OF REPRESENTATIVES

M. ______ introduced the following bill; which was referred to the Committee on ____________________

A BILL

To amend the Truth in Lending Act to establish a national usury rate for consumer credit transactions.

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 “Protecting Consumers from Unreasonable Credit Rates Act of 2019”.

SEC. 2. FINDINGS.

Congress finds that—

(1) attempts have been made to prohibit usurious interest rates in America since colonial times;
(2) at the Federal level, in 2006, Congress enacted a Federal 36-percent annualized usury cap for servicemembers and their families for covered credit products, as defined by the Department of Defense, which curbed payday, car title, and tax refund lending around military bases;

(3) notwithstanding such attempts to curb predatory lending, high-cost lending persists in all 50 States due to loopholes in State laws, safe harbor laws for specific forms of credit, and the exportation of unregulated interest rates permitted by preemption;

(4) due to the lack of a comprehensive Federal usury cap, consumers annually pay approximately $14,000,000,000 on high-cost overdraft loans, as much as approximately $7,000,000,000 on storefront and online payday loans, $3,800,000,000 on car title loans, and additional amounts in unreported revenues on high-cost online installment loans;

(5) cash-strapped consumers pay on average approximately 400 percent annual interest for payday loans, 300 percent annual interest for car title loans, up to 17,000 percent or higher for bank overdraft loans, and triple-digit rates for online installment loans;
(6) a national maximum interest rate that includes all forms of fees and closes all loopholes is necessary to eliminate such predatory lending; and

(7) alternatives to predatory lending that encourage small dollar loans with minimal or no fees, installment payment schedules, and affordable repayment periods should be encouraged.

SEC. 3. NATIONAL MAXIMUM INTEREST RATE.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end the following:

“SEC. 140B. MAXIMUM RATES OF INTEREST.

“(a) IN GENERAL.—Notwithstanding any other provision of law, a creditor may not make an extension of credit to a consumer with respect to which the fee and interest rate, as defined in subsection (b), exceeds 36 percent.

“(b) FEE AND INTEREST RATE DEFINED.—

“(1) IN GENERAL.—For purposes of this section, the term ‘fee and interest rate’ includes all charges payable (directly or indirectly) that are incident to, ancillary to, or as a condition of an extension of credit, including—

“(A) any payment compensating a creditor or prospective creditor for—
“(i) an extension of credit or making available a line of credit, such as fees connected with credit extension or availability (including numerical periodic rates, annual fees, cash advance fees, and membership fees); or

“(ii) any fees for default or breach by a borrower of a condition upon which credit was extended, such as late fees, creditor-imposed fees charged when a borrower tenders payment on a debt with a check drawn on insufficient funds, overdraft fees, and over limit fees;

“(B) all fees which constitute a finance charge, as defined by rules of the Bureau in accordance with this title;

“(C) credit insurance premiums, whether optional or required; and

“(D) all charges and costs for ancillary products sold in connection with or incidental to the credit transaction.

“(2) TOLERANCES.—

“(A) IN GENERAL.—With respect to a credit obligation that is payable in at least 3 fully amortizing installments over a period of
90 days or more, the term ‘fee and interest rate’ does not include—

“(i) an application or participation fee that in total do not exceed the greater of $30 or, if there is a limit to the credit line, 5 percent of the credit limit, up to $120, if—

“(I) such fees are excludable from the finance charge determined under section 106;

“(II) such fees cover all credit extended or renewed by the creditor to the borrower for 12 months; and

“(III) the minimum amount of credit extended or available on a credit line is equal to $300 or more;

“(ii) a late fee that does not exceed either $20 per late payment or $20 per month, charged as authorized by State law or by an agreement between the creditor and the borrower; or

“(iii) a creditor-imposed fee that does not exceed $15, charged when a borrower tenders payment on a debt with a check drawn on insufficient funds.
“(B) Adjustments for inflation.—

The Bureau may adjust the amounts of the tolerances established under this paragraph for inflation over time, consistent with the primary goals of protecting consumers and preventing circumvention of the 36-percent fee and interest rate limitation established under subsection (a).

“(c) Calculations.—

“(1) Open end credit plans.—For an open end credit plan—

“(A) the fee and interest rate shall be calculated each month, based upon the sum of all fees, charges, and payments described in subsection (b) charged by the creditor during the preceding 1-year period, divided by the average daily balance; and

“(B) if the credit account has been open less than 1 year, the fee and interest rate shall be calculated based upon the total of all fees, charges, and payments described in subsection (b)(1) charged by the creditor since the plan was opened, divided by the average daily balance, and multiplied by the quotient of 12 divided by the number of full months that the credit plan has been in existence.
“(2) OTHER CREDIT PLANS.—For purposes of this section, in calculating the fee and interest rate, the Bureau shall require the method of calculation of annual percentage rate specified in section 107(a)(1), except that the amount referred to in that section 107(a)(1) as the ‘finance charge’ shall include all fees, charges, and payments described in subsection (b)(1) of this section.

“(3) ADJUSTMENTS AUTHORIZED.—The Bureau may make adjustments to the calculations in paragraphs (1) and (2), if the primary goal of such adjustment is to protect consumers and to prevent circumvention of the 36-percent fee and interest rate limitation established under subsection (a).

“(d) DEFINITION OF CREDITOR.—As used in this section, the term ‘creditor’ has the same meaning as in section 702(e) of the Equal Credit Opportunity Act (15 U.S.C. 1691a(e)).

“(e) NO EXEMPTIONS PERMITTED.—The exemption authority of the Bureau under section 105 shall not apply to this section or to the disclosure requirements under section 127(b)(6).

“(f) DISCLOSURE OF FEE AND INTEREST RATE FOR CREDIT OTHER THAN OPEN END CREDIT PLANS.—In addition to the disclosure requirements under section
127(b)(6), the Bureau may prescribe regulations requiring
disclosure of the fee and interest rate established under
this section.

“(g) RELATION TO STATE LAW.—Nothing in this
section may be construed to preempt any provision of
State law that provides greater protection to consumers
than is provided in this section.

“(h) CIVIL LIABILITY AND ENFORCEMENT.—In addi-
tion to remedies available to the consumer under section
130(a), any payment compensating a creditor or prospec-
tive creditor, to the extent that such payment is a trans-
action made in violation of this section, shall be null and
void, and not enforceable by any party in any court or
alternative dispute resolution forum, and the creditor or
any subsequent holder of the obligation shall promptly re-
turn to the consumer any principal, interest, charges, and
fees, and any security interest associated with such trans-
action. Notwithstanding any statute of limitations or
repose, a violation of this section may be raised as a mat-
ter of defense by recoupment or setoff to an action to col-
lect such debt or repossess related security at any time.

“(i) VIOLATIONS.—Any person that violates this sec-
tion, or seeks to enforce an agreement made in violation
of this section, shall be subject to, for each such violation,
1 year in prison and a fine in an amount equal to the
greater of—
“(1) 3 times the amount of the total accrued
debt associated with the subject transaction; or
“(2) $50,000.
“(j) STATE ATTORNEYS GENERAL.—An action to en-
force this section may be brought by the appropriate State
attorney general in any United States district court or any
other court of competent jurisdiction within 3 years from
the date of the violation, and such attorney general may
obtain injunctive relief.”.
(b) CLERICAL AMENDMENT.—The table of contents
for chapter 2 of the Truth in Lending Act (15 U.S.C.
1631 et seq.) is amended by adding at the end the fol-
lowing:
“140B. Maximum rates of interest.”.
SEC. 4. DISCLOSURE OF FEE AND INTEREST RATE FOR
OPEN END CREDIT PLANS.
Section 127(b)(6) of the Truth in Lending Act (15
U.S.C. 1637(b)(6)) is amended by striking “the total fi-
nance charge expressed” and all that follows through the
end of the paragraph and inserting “the fee and interest
rate, displayed as ‘FAIR’, established under section
140B.”.