

2012 -- S 2606

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS -
UNFAIR SALES PRACTICES

Introduced By: Senators Algieri, Bates, and Tassoni

Date Introduced: March 01, 2012

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 6-13 of the General Laws entitled "Unfair Sales Practices" is
2 hereby amended by adding thereto the following section:

3 **6-13-21. Price gouging - essential commodities.** -- (a) Upon a declaration of a state of
4 emergency by the governor, or federal disaster declaration by the president, or during an actual or
5 anticipated market emergency or economic emergency, it shall be an unfair sales practice for
6 individuals or retailers to participate in price gouging by making sales of, or offering to sell,
7 essential commodities to consumers for an amount that represents an unconscionably high price.

8 (b) As used in this section:

9 (1) "Unconscionably high price" means that the amount charged represents a gross
10 disparity between the average prices at which the same or similar commodity was readily
11 available and sold or offered for sale within the local trade area immediately prior to a declaration
12 of a state of emergency by the governor or other market emergency, and that the additional
13 charges are not substantially attributable to increased cost to retailers, imposed by their suppliers
14 or abnormal market disruption.

15 (i) Under a federal disaster declaration by the president or upon a declaration of a state of
16 emergency by the governor, it is unlawful and a violation of chapter 6-13 of title 6, and
17 subdivision 30-15-9(e)(12) of title 30, to sell, or offer to sell, at an unconscionably high price,
18 within the area for which the state of emergency is declared, any essential commodity, including,

1 but not limited to, home heating fuels, motor fuels, supplies, services, provisions, or equipment
2 that is necessary for consumption or use as a direct result of the emergency.

3 (2) "Price gouging" means charging a consumer an unconscionably high price for
4 essential commodities during a declared or anticipated state of emergency;

5 (3) "Essential commodities" means any goods, services, materials, merchandise, supplies,
6 equipment, resources, or other article of commerce, and includes, without limitation, home
7 heating fuels, motor fuels, food, water, ice, chemicals, petroleum products and lumber necessary
8 for consumption or use as a direct result of the emergency.

9 (4) "Market emergency" means any abnormal disruption of the market for essential
10 commodities, including, but not limited to, any actual or threatened shortage in the supply or any
11 actual or threatened increase in the price of the essential commodities, resulting from severe
12 weather, convulsion of nature, failure or shortage of electric power or other source of energy,
13 strike, civil disorder, act of war, national or local emergency or other extraordinary adverse
14 circumstances.

15 (5) "Individual" means a person, corporation, partnership, limited liability company,
16 association, joint venture, agency, or any other legal or commercial entity.

17 (6) "Consumer" means an individual who enters into a transaction primarily for personal,
18 family, or household purposes.

19 (7) "Retailer" means and includes every individual licensed to engage in the business of
20 making sales at retail within this state.

21 (8) "Economic emergency" means a state of the economy wherein a substantial number
22 of persons, either because of increased prices or a reduction in income, or a combination of those
23 factors, are experiencing difficulty in affording essential commodities.

24 (c) This section shall not prohibit the fluctuation in price of essential commodities which
25 occur during the normal course of business.

26 (d) Any violation of this section shall constitute an unfair sales practice under the terms
27 of chapter 13.1 of title 6.

28 (e) In addition to the penalties provided in chapter 13.1 of title 6, and subdivision 30-15-
29 9(e)(12), the court may impose orders and civil penalties, including, but not limited to:

30 (1) A fine of not more than one thousand dollars (\$1,000) per violation with an aggregate
31 total not to exceed twenty-five thousand dollars (\$25,000) for any twenty-four (24) hour period;

32 (2) An order to pay costs of litigation relating to the offense;

33 (3) An order for disgorgement of profits earned; and

34 (4) Any other relief determined by the court to be appropriate.

1 (f) All monetary penalties so collected shall accrue to the enforcing authority to further
2 consumer enforcement efforts.

3 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would prohibit individuals and retailers of essential commodities from engaging
2 in price gouging during a market emergency, an economic emergency, or upon a declaration of a
3 state of emergency by the governor or federal disaster declaration.

4 This act would take effect upon passage.

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