

CHAPTER 305

CONSUMER AND COMMERCIAL TRANSACTIONS

HOUSE BILL 20-1414

BY REPRESENTATIVE(S) Weissman and Titone, Arndt, Benavidez, Bird, Buckner, Buentello, Caraveo, Coleman, Cutter, Duran, Esgar, Exum, Froelich, Garnett, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Lontine, McCluskie, McLachlan, Michaelson Jenet, Melton, Mullica, Roberts, Singer, Sirota, Snyder, Tipper, Valdez A., Valdez D., Woodrow, Young;
also SENATOR(S) Foote and Pettersen, Bridges, Danielson, Fenberg, Fields, Ginal, Gonzales, Hansen, Lee, Moreno, Todd, Winter, Zenzinger, Garcia.

AN ACT

CONCERNING A PROHIBITION AGAINST ENGAGING IN PRICE GOUGING FOR A PERIOD FOLLOWING A DECLARED DISASTER.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 6-1-730 as follows:

6-1-730. Price gouging during declared disaster prohibited - deceptive trade practice - legislative declaration - definitions. (1) THE GENERAL ASSEMBLY HEREBY:

(a) FINDS AND DETERMINES THAT:

(I) UNDER ORDINARY CONDITIONS, THE PRICING OF CONSUMER GOODS AND SERVICES GENERALLY IS BEST LEFT TO THE MARKETPLACE; EXCEPT THAT, WHEN A DECLARED DISASTER RESULTS IN ABNORMAL DISRUPTIONS OF THE MARKET, THE PUBLIC INTEREST REQUIRES THAT ANY UNFAIR AND UNCONSCIONABLE INCREASE IN THE PRICE OF CONSUMER GOODS OR SERVICES BE DISCOURAGED; AND

(II) PROTECTING CONSUMERS FROM PRICE GOUGING IS A VITAL FUNCTION OF THE STATE'S INTEREST IN PROVIDING FOR THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC; AND

(b) DECLARES THAT EXISTING PROHIBITIONS ON DECEPTIVE OR UNFAIR AND UNCONSCIONABLE TRADE PRACTICES UNDER THIS ARTICLE 1 SHOULD BE CLARIFIED

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

TO ENSURE THAT PRICE GOUGING HAS BEEN AND REMAINS A VIOLATION OF THIS ARTICLE 1.

(2) A PERSON ENGAGES IN AN UNFAIR AND UNCONSCIONABLE ACT OR PRACTICE WHEN, DURING A DISASTER PERIOD AND WITHIN THE DESIGNATED AREA, THE PERSON CHARGES A PRICE SO EXCESSIVE AS TO AMOUNT TO PRICE GOUGING IN:

(a) THE SALE OR OFFER FOR SALE OF:

(I) BUILDING MATERIALS;

(II) CONSUMER FOOD ITEMS;

(III) EMERGENCY SUPPLIES;

(IV) FUEL;

(V) MEDICAL SUPPLIES; OR

(VI) OTHER NECESSITIES; OR

(b) THE PROVISION OF OR OFFER TO PROVIDE:

(I) REPAIR OR RECONSTRUCTION SERVICES;

(II) TRANSPORTATION, FREIGHT, OR STORAGE SERVICES; OR

(III) SERVICES USED IN AN EMERGENCY CLEANUP.

(3) A PRICE SHALL NOT BE CONSIDERED UNREASONABLY EXCESSIVE IF THE SELLER CAN PROVE THAT, DUE TO THE EVENTS THAT GAVE RISE TO THE DISASTER DECLARATION, THE PRICE CHARGED BY THE SELLER IS DIRECTLY ATTRIBUTABLE TO ADDITIONAL COSTS IMPOSED BY THE SELLER'S SUPPLIER OR SUPPLIERS OR OTHER DIRECT COSTS OF PROVIDING THE GOOD OR SERVICE SOLD OR OFFERED FOR SALE BY THE SELLER.

(4) THIS SECTION IS ENFORCEABLE SOLELY BY, AND AT THE DISCRETION OF, THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY WITH JURISDICTION OVER THE CONDUCT AT ISSUE.

(5) AS USED IN THIS SECTION:

(a) "BUILDING MATERIALS" MEANS LUMBER, CONSTRUCTION TOOLS, WINDOWS, AND OTHER MATERIALS USED IN THE REPAIR OR RECONSTRUCTION OF A STRUCTURE OR OTHER PROPERTY.

(b) "CONSUMER FOOD ITEM" MEANS AN ARTICLE USED OR INTENDED FOR USE AS FOOD, BEVERAGE, CONFECTION, OR CONDIMENT FOR HUMAN OR ANIMAL CONSUMPTION.

(c) "DESIGNATED AREA" MEANS THE SPECIFIC GEOGRAPHIC AREA IDENTIFIED IN

A DISASTER DECLARATION.

(d) "DISASTER" HAS THE MEANING SET FORTH IN SECTION 24-33.5-703 (3).

(e) "DISASTER DECLARATION" MEANS THE DECLARATION OF:

(I) A NATIONAL EMERGENCY BY THE PRESIDENT OF THE UNITED STATES PURSUANT TO THE "NATIONAL EMERGENCIES ACT", 50 U.S.C. SEC. 1601 ET SEQ., AS AMENDED; OR

(II) A DISASTER EMERGENCY BY THE GOVERNOR PURSUANT TO SECTION 24-33.5-704 (4).

(f) "DISASTER PERIOD" MEANS THE DATE A DISASTER DECLARATION BEGINS AND CONTINUING FOR ONE HUNDRED EIGHTY DAYS AFTER THE DATE THE DISASTER DECLARATION BEGINS.

(g) "EMERGENCY SUPPLIES" INCLUDES WATER, ICE, FLASHLIGHTS, RADIOS, BATTERIES, CANDLES, BLANKETS, SOAP, DIAPERS, TEMPORARY SHELTERS, TAPE, TOILET PAPER, TISSUES, PAPER TOWELS, AND TOILETRIES.

(h) (I) "FUEL" MEANS ANY LIQUID OR GAS USED TO POWER A VEHICLE OR POWER TOOL OR USED TO HEAT AND POWER A BUILDING.

(II) "FUEL" INCLUDES GASOLINE, DIESEL FUEL, AND METHYL ALCOHOL.

(i) "MEDICAL DEVICE" HAS THE SAME MEANING AS "DEVICE" AS SET FORTH IN SECTION 25-5-402 (8).

(j) "MEDICAL SUPPLIES" INCLUDES PRESCRIPTION AND NONPRESCRIPTION MEDICATION, MEDICAL DEVICES, BANDAGES, GAUZE, ISOPROPYL ALCOHOL, AND ANTIBACTERIAL PRODUCTS.

(k) "NECESSITIES" MEANS GOODS AND SERVICES THAT ARE NECESSARY FOR HUMAN OR ANIMAL SURVIVAL DURING A DISASTER PERIOD.

(l) "REPAIR OR RECONSTRUCTION SERVICES" MEANS SERVICES PERFORMED TO REPAIR OR RECONSTRUCT ANY TYPE OF VEHICLE; RESIDENTIAL, COMMERCIAL, AGRICULTURAL, OR GOVERNMENT-OWNED PROPERTY; OR ANY PROPERTY OWNED BY AN EDUCATIONAL INSTITUTION, THAT IS DAMAGED AS A RESULT OF A DISASTER.

(m) (I) "TRANSPORTATION, FREIGHT, OR STORAGE SERVICES" MEANS A SERVICE THAT IS PERFORMED BY A PERSON THAT:

(A) CONTRACTS TO MOVE, TRANSPORT, OR STORE PROPERTY; OR

(B) RENTS EQUIPMENT FOR THE PURPOSE OF MOVING, TRANSPORTING, OR STORING PROPERTY.

(II) "TRANSPORTATION, FREIGHT, OR STORAGE SERVICES" INCLUDES TOWING SERVICES.

SECTION 2. Applicability. This act applies to actions brought on or after the effective date of this act.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: July 14, 2020