

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-1306.01 Jennifer Berman x3286

HOUSE BILL 20-1414

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SENATE SPONSORSHIP

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Finance

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill establishes that a person engages in a deceptive trade practice if the person, for a period following the declaration of a disaster or disaster emergency by the president of the United States, the governor of the state, or the principal executive officer of a political subdivision and in the geographic area for which the disaster was declared, sells, offers for sale, provides, or offers to provide any of the following at a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 3rd Reading
June 9, 2020

HOUSE
Amended 2nd Reading
June 8, 2020

price so excessive as to amount to price gouging:

- ! Building materials;
- ! Consumer food items;
- ! Emergency supplies;
- ! Fuel;
- ! Medical supplies;
- ! Other necessities;
- ! Repair or reconstruction services;
- ! Transportation, freight, or storage services; or
- ! Services used in an emergency cleanup.

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

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

4 **6-1-730. Price gouging during declared disaster prohibited -**
5 **deceptive trade practice - legislative declaration - definitions.** (1) THE

6 GENERAL ASSEMBLY HEREBY:

7 (a) FINDS AND DETERMINES THAT:

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

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

17 (b) DECLARES THAT EXISTING PROHIBITIONS ON DECEPTIVE OR
18 UNFAIR AND UNCONSCIONABLE TRADE PRACTICES UNDER THIS ARTICLE 1
19 SHOULD BE CLARIFIED TO ENSURE THAT PRICE GOUGING HAS BEEN AND
20 REMAINS A VIOLATION OF THIS ARTICLE 1.

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

5 (a) THE SALE OR OFFER FOR SALE OF:

6 (I) BUILDING MATERIALS;

7 (II) CONSUMER FOOD ITEMS;

8 (III) EMERGENCY SUPPLIES;

9 (IV) FUEL;

10 (V) MEDICAL SUPPLIES; OR

11 (VI) OTHER NECESSITIES; OR

12 (b) THE PROVISION OF OR OFFER TO PROVIDE:

13 (I) REPAIR OR RECONSTRUCTION SERVICES;

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

15 (III) SERVICES USED IN AN EMERGENCY CLEANUP.

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

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

26 (5) AS USED IN THIS SECTION:

27 (a) "BUILDING MATERIALS" MEANS LUMBER, CONSTRUCTION

1 TOOLS, WINDOWS, AND OTHER MATERIALS USED IN THE REPAIR OR
2 RECONSTRUCTION OF A STRUCTURE OR OTHER PROPERTY.

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

6 (c) "DESIGNATED AREA" MEANS THE SPECIFIC GEOGRAPHIC AREA
7 IDENTIFIED IN A DISASTER DECLARATION.

8 (d) "DISASTER" HAS THE MEANING SET FORTH IN SECTION
9 24-33.5-703 (3).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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