

56:8-107

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2001 **CHAPTER:** 297
NJSA: 56:8-107 (Sale of Merchandise at excessive prices during emergencies)
BILL NO: S23 (Substituted for A892/1560 (Assembly Substitute))

SPONSOR(S): Robertson and Codey

DATE INTRODUCED: October 3, 2001

COMMITTEE: **ASSEMBLY:** ----

SENATE: ----

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** November 29, 2001

SENATE: October 3, 2001

DATE OF APPROVAL: January 2, 2002

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Original version of bill enacted)

S23

SPONSORS STATEMENT: (Begins on page 3 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

A892/1560

SPONSORS STATEMENT (A892): (Begins on page 3 of original bill) Yes

SPONSORS STATEMENT (A1560): (Begins on page 3 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY (A892):** Yes

ASSEMBLY (A1560): Yes

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

FINAL VERSION (Assembly Substitute): Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

SENATE, No. 23

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED OCTOBER 3, 2001

Sponsored by:

Senator NORMAN M. ROBERTSON

District 34 (Essex and Passaic)

Senator RICHARD J. CODEY

District 27 (Essex)

Co-Sponsored by:

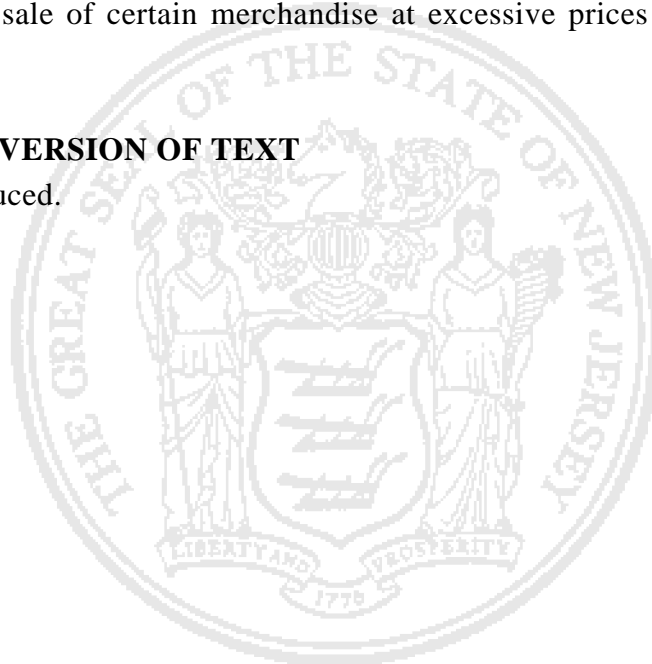
Senators Kosco, Palaia, Ciesla, Matheussen, Martin, Cardinale, Kyrillos, Littell, Zane, Bark, McNamara, Connors, Bucco, Inverso, Allen, Cafiero, O'Toole, Gormley, Singer, Kavanaugh, Bryant, Adler, Turner, Lynch, Vitale, Lesniak, Rice, James, O'Connor, Sacco, Kenny, Girgenti, Furnari, Baer, Assemblymen Bateman, Biondi, Zisa and Assemblywoman Gill

SYNOPSIS

Prohibits sale of certain merchandise at excessive prices during certain emergencies.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/30/2001)

1 AN ACT prohibiting excessive price increases at certain times and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. The Legislature finds and declares that during emergencies and
8 major disasters, including, but not limited to, earthquakes, fires, floods
9 or civil disturbances, some merchants have taken unfair advantage of
10 consumers by greatly increasing prices for certain merchandise. While
11 the pricing of merchandise is generally best left to the marketplace
12 under ordinary conditions, when a declared state of emergency results
13 in abnormal disruptions of the market, the public interest requires that
14 excessive and unjustified price increases in the sale of certain
15 merchandise be prohibited. It is the intention of the Legislature to
16 prohibit excessive and unjustified price increases in the sale of certain
17 merchandise during declared states of emergency in New Jersey.

18
19 2. As used in this act:

20 "Excessive price increase" means a price that is excessive as
21 compared to the price at which the consumer good or service was sold
22 or offered for sale by the seller in the usual course of business
23 immediately prior to the state of emergency. A price shall be deemed
24 excessive if:

25 (1) The price exceeds by more than 10 percent the price at which
26 the good or service was sold or offered for sale by the seller in the
27 usual course of business immediately prior to the state of emergency,
28 unless the price charged by the seller is attributable to additional costs
29 imposed by the seller's supplier or other costs of providing the good
30 or service during the state of emergency;

31 (2) In those situations where the increase in price is attributable to
32 additional costs imposed by the seller's supplier or additional costs of
33 providing the good or service during the state of emergency, the price
34 represents an increase of more than 10 percent in the amount of
35 markup from cost, compared to the markup customarily applied by the
36 seller in the usual course of business immediately prior to the state of
37 emergency.

38 "State of emergency" means a natural or man-made disaster or
39 emergency for which a state of emergency has been declared by the
40 President of the United States or the Governor, or for which a state of
41 emergency has been declared by a municipal emergency management
42 coordinator.

43
44 3. It shall be an unlawful practice for any person to sell or offer to
45 sell during a state of emergency or within 30 days of the termination
46 of a state of emergency, in the area for which the state of emergency

1 has been declared, any merchandise which is consumed or used as a
2 direct result of an emergency or which is consumed or used to
3 preserve, protect, or sustain the life, health, safety or comfort of
4 persons or their property for a price that constitutes an excessive price
5 increase.

6
7 4. This act shall take effect immediately.
8
9

10 STATEMENT
11

12 This bill prohibits the charging of an excessive price for certain
13 merchandise during a state of emergency or within 30 days of the
14 termination of a state of emergency. The bill defines a state of
15 emergency as a natural or man-made disaster or emergency for which
16 a state of emergency has been declared by the President of the United
17 States or the Governor, or for which a state of local disaster
18 emergency has been proclaimed by a municipal emergency
19 management coordinator. Pursuant to the consumer fraud law, which
20 this bill supplements, merchandise is defined as including any objects,
21 wares, goods, commodities, services or anything offered, directly or
22 indirectly to the public for sale.

23 The bill defines an excessive price as a price that is excessive as
24 compared to the price at which the consumer good or service was sold
25 or offered for sale by the seller in the usual course of business
26 immediately prior to the state of emergency. A price shall be deemed
27 excessive if the price exceeds by more than 10 percent the price at
28 which the good or service was sold or offered for sale by the seller in
29 the usual course of business immediately prior to the state of
30 emergency, unless the price charged by the seller is attributable to
31 additional costs imposed by the seller's supplier or other costs of
32 providing the good or service during the state of emergency. In those
33 situations where the increase in price is attributable to additional costs
34 imposed by the seller's supplier or additional costs of providing the
35 good or service during the state of emergency, the price shall be
36 deemed excessive if it represents an increase of more than 10 percent
37 in the amount of markup from cost, compared to the markup
38 customarily applied by the seller in the usual course of business
39 immediately prior to the state of emergency.

40 The bill provides that it is an unlawful practice under the consumer
41 fraud law to charge an excessive price during a state of emergency or
42 within 30 days of the termination of a state of emergency any
43 merchandise which is consumed or used as a direct result of an
44 emergency or which is consumed or used to preserve, protect, or
45 sustain the life, health, safety or comfort of persons or their property.
46 By supplementing the consumer fraud law, this bill subjects violators

S23 ROBERTSON, CODEY

4

- 1 to a penalty of not more than \$7,500 for a first offense and not more
- 2 than \$15,000 for the second and each subsequent offense.

ASSEMBLY, No. 892

STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

Assemblyman PETER J. BIONDI

District 16 (Morris and Somerset)

SYNOPSIS

Prohibits price gouging during a declared state of emergency.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning prohibited pricing practices and supplementing
2 Title 2C of the New Jersey Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. A person commits a crime of the fourth degree if, during or
8 within 180 days following a state of emergency declared by the
9 President of the United States or the Governor, or upon the
10 declaration of a state of local disaster by an authorized local
11 government official that person sells or offers to sell any essential
12 commodity including, but not limited to, supplies, services, provisions
13 or equipment that is necessary for consumption or use as a direct
14 result of the emergency, at a price of more than 10% above the price
15 ordinarily charged for comparable goods and services immediately
16 prior to the declared state of emergency. It is an affirmative defense to
17 a prosecution under this section that if the increase in price was
18 directly attributable to additional costs imposed on the seller by the
19 supplier of the goods or directly attributable to additional costs for
20 labor or materials used to provide the services, provided that in those
21 situations where the increase in price is attributable to additional costs
22 imposed by the seller's supplier or additional costs of providing the
23 good or service during the state of emergency, the price represents no
24 more than 10% above the total of the cost to the seller plus the
25 markup customarily applied by the seller for that good or service in the
26 usual course of business immediately prior to the onset of the state of
27 emergency.

28 Each sale or offer to sell in violation of this subsection constitutes
29 a separate offense.

30 b. It shall be unlawful for any contractor, during or within 180
31 days following a state of emergency declared by the President of the
32 United States or the Governor, or upon the declaration of a state of
33 local disaster by an authorized local government official to sell or offer
34 to sell any repair or reconstruction services or any services used in
35 emergency cleanup for a price of more than 10% above the price
36 ordinarily charged by that person for those services immediately prior
37 to the declared state of emergency. It is an affirmative defense to a
38 prosecution under this section that if the increase in price was directly
39 attributable to additional costs imposed on the contractor by the
40 supplier of the goods or directly attributable to additional costs for
41 labor or materials used to provide the services, provided that in those
42 situations where the increase in price is attributable to additional costs
43 imposed by the contractor's supplier or additional costs of providing
44 the good or service during the state of emergency, the price represents
45 no more than 10% above the total of the cost to the contractor plus
46 the markup customarily applied by the contractor for that good or

1 service in the usual course of business immediately prior to the onset
2 of the state of emergency.

3 Any person who violates this subsection shall be guilty of a crime
4 of the fourth degree. Each sale or offer to sell in violation of this
5 subsection constitutes a separate offense.

6

7 2. This act shall take effect immediately.

8

9

10 STATEMENT

11

12 It makes it a crime of the fourth degree for any person to sell or
13 offer to sell any goods or services during or within 180 days following
14 a declared state of emergency or local disaster at a price of more than
15 10% above the price ordinarily charged for comparable goods or
16 services immediately prior to the proclamation of emergency. The bill
17 further provides that it is an affirmative defense to a prosecution under
18 this bill if the increase in price was directly attributable to additional
19 costs imposed on the seller by the supplier of the goods or directly
20 attributable to additional costs for labor or materials used to provide
21 the services. In those instances where the increase in price is
22 attributable to additional costs imposed by the seller's supplier or
23 additional costs of providing the goods or services during the state of
24 emergency, the price shall represent no more than 10% above the total
25 of the cost to the seller plus the markup customarily applied by the
26 seller for that good or service in the usual course of business
27 immediately prior to the onset of the state of emergency.

28 In addition, this bill makes it a crime of the fourth degree for any
29 contractor to sell or offer to sell any repair or reconstruction services
30 used during an emergency cleanup for a price of more than 10% above
31 the price ordinarily charged by the contractor for those services
32 immediately prior to the declared state of emergency or local disaster.
33 The bill further provides that it is an affirmative defense to a
34 prosecution under this bill if the increase in price was directly
35 attributable to any additional costs imposed on the contractor by his
36 supplier or additional costs for labor or materials used to provide the
37 service, provided that the price represents no more than 10% above
38 the total cost to the contractor plus the markup customarily applied by
39 the contractor for those goods and services in the usual course of
40 business immediately prior to the onset of the state of emergency.

ASSEMBLY CONSUMER AFFAIRS AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 892

STATE OF NEW JERSEY

DATED: MARCH 2, 2000

The Assembly Consumer Affairs and Regulated Professions Committee reports favorably Assembly Bill No. 892.

This bill makes it a crime of the fourth degree for any person to sell or offer to sell any goods or services during or within 180 days following a declared state of emergency or local disaster at a price of more than 10% above the price ordinarily charged for comparable goods or services immediately prior to the proclamation of emergency. The bill further provides that it is an affirmative defense to a prosecution under this bill if the increase in price was directly attributable to additional costs imposed on the seller by the supplier of the goods or directly attributable to additional costs for labor or materials used to provide the services. In those instances where the increase in price is attributable to additional costs imposed by the seller's supplier or additional costs of providing the goods or services during the state of emergency, the price shall represent no more than 10% above the total of the cost to the seller plus the markup customarily applied by the seller for that good or service in the usual course of business immediately prior to the onset of the state of emergency.

In addition, this bill makes it a crime of the fourth degree for any contractor to sell or offer to sell any repair or reconstruction services used during an emergency cleanup for a price of more than 10% above the price ordinarily charged by the contractor for those services immediately prior to the declared state of emergency or local disaster. The bill further provides that it is an affirmative defense to a prosecution under this bill if the increase in price was directly attributable to any additional costs imposed on the contractor by his supplier or additional costs for labor or materials used to provide the service, provided that the price represents no more than 10% above the total cost to the contractor plus the markup customarily applied by the contractor for those goods and services in the usual course of business immediately prior to the onset of the state of emergency.

This bill was pre-filed for introduction in the 2000-2001 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY, No. 892

STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

Assemblyman PETER J. BIONDI

District 16 (Morris and Somerset)

Co-Sponsored by:

Assemblyman Connors

SYNOPSIS

Prohibits price gouging during a declared state of emergency.

CURRENT VERSION OF TEXT

As reported by the Assembly Consumer Affairs and Regulated Professions Committee with technical review.



(Sponsorship Updated As Of: 12/8/2000)

1 AN ACT concerning prohibited pricing practices and supplementing
2 Title 2C of the New Jersey Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. a. A person commits a crime of the fourth degree if, during or
8 within 180 days following a state of emergency declared by the
9 President of the United States or the Governor, or upon the
10 declaration of a state of local disaster by an authorized local
11 government official, that person sells or offers to sell any essential
12 commodity including, but not limited to, supplies, services, provisions
13 or equipment that is necessary for consumption or use as a direct
14 result of the emergency, at a price of more than 10% above the price
15 ordinarily charged for comparable goods and services immediately
16 prior to the declared state of emergency. It is an affirmative defense
17 to a prosecution under this section that if the increase in price was
18 directly attributable to additional costs imposed on the seller by the
19 supplier of the goods or directly attributable to additional costs for
20 labor or materials used to provide the services, provided that in those
21 situations where the increase in price is attributable to additional costs
22 imposed by the seller's supplier or additional costs of providing the
23 good or service during the state of emergency, the price represents no
24 more than 10% above the total of the cost to the seller plus the
25 markup customarily applied by the seller for that good or service in the
26 usual course of business immediately prior to the onset of the state of
27 emergency.

28 Each sale or offer to sell in violation of this subsection constitutes
29 a separate offense.

30 b. It shall be unlawful for any contractor, during or within 180
31 days following a state of emergency declared by the President of the
32 United States or the Governor, or upon the declaration of a state of
33 local disaster by an authorized local government official, to sell or
34 offer to sell any repair or reconstruction services or any services used
35 in emergency cleanup for a price of more than 10% above the price
36 ordinarily charged by that person for those services immediately prior
37 to the declared state of emergency. It is an affirmative defense to a
38 prosecution under this section that if the increase in price was directly
39 attributable to additional costs imposed on the contractor by the
40 supplier of the goods or directly attributable to additional costs for
41 labor or materials used to provide the services, provided that in those
42 situations where the increase in price is attributable to additional costs
43 imposed by the contractor's supplier or additional costs of providing
44 the good or service during the state of emergency, the price represents
45 no more than 10% above the total of the cost to the contractor plus
46 the markup customarily applied by the contractor for that good or

A892 BATEMAN, BIONDI

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1 service in the usual course of business immediately prior to the onset
2 of the state of emergency.

3 Any person who violates this subsection shall be guilty of a crime
4 of the fourth degree. Each sale or offer to sell in violation of this
5 subsection constitutes a separate offense.

6

7 2. This act shall take effect immediately.

ASSEMBLY, No. 1560

STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman CHARLES "KEN" ZISA

District 37 (Bergen)

Assemblywoman NIA H. GILL

District 27 (Essex)

Co-Sponsored by:

Assemblywoman Weinberg

SYNOPSIS

Prohibits sale of essential consumer goods or services at excessive prices during certain emergencies.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT prohibiting excessive price increases at certain times and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. The Legislature finds and declares that during emergencies and
8 major disasters, including, but not limited to, earthquakes, fires, floods
9 or civil disturbances, some merchants have taken unfair advantage of
10 consumers by greatly increasing prices for essential consumer goods
11 and services. While the pricing of consumer goods and services is
12 generally best left to the marketplace under ordinary conditions, when
13 a declared state of emergency results in abnormal disruptions of the
14 market, the public interest requires that excessive and unjustified price
15 increases in the sale of essential consumer goods or services be
16 prohibited. It is the intention of the Legislature to prohibit excessive
17 and unjustified price increases in the sale of essential consumer goods
18 or services during declared states of emergency in New Jersey.

19
20 2. As used in this act:

21 "Essential consumer good or service" means water and all
22 beverages intended for human consumption, food, medicines and
23 medical supplies, sanitation and personal hygiene supplies, gasoline
24 and other motor fuels, home heating oil, building materials and other
25 materials, any goods or services used for emergency cleanup or
26 emergency repair, any repair or reconstruction services offered or
27 provided to repair residential and commercial property of any type
28 damaged as a result of a disaster, and emergency supplies including
29 flashlights, radios, batteries, candles, blankets, and temporary shelters.

30 "Excessive price increase" means a price that is excessive as
31 compared to the price at which the consumer good or service was sold
32 or offered for sale by the seller in the usual course of business
33 immediately prior to the state of emergency. A price shall be deemed
34 excessive if:

35 (1) The price exceeds by more than 10 percent the price at which
36 the good or service was sold or offered for sale by the seller in the
37 usual course of business immediately prior to the state of emergency,
38 unless the price charged by the seller is attributable to additional costs
39 imposed by the seller's supplier or other costs of providing the good
40 or service during the state of emergency;

41 (2) In those situations where the increase in price is attributable to
42 additional costs imposed by the seller's supplier or additional costs of
43 providing the good or service during the state of emergency, the price
44 represents an increase of more than 10 percent in the amount of
45 markup from cost, compared to the markup customarily applied by the

1 seller in the usual course of business immediately prior to the state of
2 emergency.

3 "State of emergency" means a natural or man-made disaster or
4 emergency for which a state of emergency has been declared by the
5 President of the United States or the Governor, or for which a state of
6 emergency has been declared by a municipal emergency management
7 coordinator.

8

9 3. It shall be an unlawful practice for any person to sell or offer to
10 sell any essential consumer good or service during a state of
11 emergency or within 30 days of the termination of a state of
12 emergency, in the area for which the state of emergency has been
13 declared, for a price that constitutes an excessive price increase.

14

15 4. This act shall take effect immediately

16

17

18 STATEMENT

19

20 This bill prohibits the charging of an excessive price for an essential
21 consumer good or service during a state of emergency or within 30
22 days of the termination of a state of emergency. The bill defines a
23 state of emergency as a natural or man-made disaster or emergency for
24 which a state of emergency has been declared by the President of the
25 United States or the Governor, or for which a state of local disaster
26 emergency has been proclaimed by a municipal emergency
27 management coordinator.

28

29 The bill defines an excessive price as a price that is excessive as
30 compared to the price at which the consumer good or service was sold
31 or offered for sale by the seller in the usual course of business
32 immediately prior to the state of emergency. A price shall be deemed
33 excessive if the price exceeds by more than 10 percent the price at
34 which the good or service was sold or offered for sale by the seller in
35 the usual course of business immediately prior to the state of
36 emergency, unless the price charged by the seller is attributable to
37 additional costs imposed by the seller's supplier or other costs of
38 providing the good or service during the state of emergency. In those
39 situations where the increase in price is attributable to additional costs
40 imposed by the seller's supplier or additional costs of providing the
41 good or service during the state of emergency, the price shall be
42 deemed excessive if it represents an increase of more than 10 percent
43 in the amount of markup from cost, compared to the markup
44 customarily applied by the seller in the usual course of business
45 immediately prior to the state of emergency.

46 The bill provides that it is an unlawful practice under the consumer
fraud law to charge an excessive price during a state of emergency,

A1560 ZISA, GILL

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1 thereby subjecting violators to a penalty of not more than \$7,500 for
2 a first offense and not more than \$15,000 for the second and each
3 subsequent offense.

ASSEMBLY, No. 1560

STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman CHARLES "KEN" ZISA

District 37 (Bergen)

Assemblywoman NIA H. GILL

District 27 (Essex)

Co-Sponsored by:

Assemblywoman Weinberg

SYNOPSIS

Prohibits sale of essential consumer goods or services at excessive prices during certain emergencies.

CURRENT VERSION OF TEXT

As reported by the Assembly Consumer Affairs and Regulated Professions Committee with technical review.



1 AN ACT prohibiting excessive price increases at certain times and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. The Legislature finds and declares that during emergencies and
8 major disasters, including, but not limited to, earthquakes, fires, floods
9 or civil disturbances, some merchants have taken unfair advantage of
10 consumers by greatly increasing prices for essential consumer goods
11 and services. While the pricing of consumer goods and services is
12 generally best left to the marketplace under ordinary conditions, when
13 a declared state of emergency results in abnormal disruptions of the
14 market, the public interest requires that excessive and unjustified price
15 increases in the sale of essential consumer goods or services be
16 prohibited. It is the intention of the Legislature to prohibit excessive
17 and unjustified price increases in the sale of essential consumer goods
18 or services during declared states of emergency in New Jersey.

19
20 2. As used in this act:

21 "Essential consumer good or service" means water and all
22 beverages intended for human consumption, food, medicines and
23 medical supplies, sanitation and personal hygiene supplies, gasoline
24 and other motor fuels, home heating oil, building materials and other
25 materials, any goods or services used for emergency cleanup or
26 emergency repair, any repair or reconstruction services offered or
27 provided to repair residential and commercial property of any type
28 damaged as a result of a disaster, and emergency supplies including
29 flashlights, radios, batteries, candles, blankets, and temporary shelters.

30 "Excessive price increase" means a price that is excessive as
31 compared to the price at which the consumer good or service was sold
32 or offered for sale by the seller in the usual course of business
33 immediately prior to the state of emergency. A price shall be deemed
34 excessive if:

35 (1) The price exceeds by more than 10 percent the price at which
36 the good or service was sold or offered for sale by the seller in the
37 usual course of business immediately prior to the state of emergency,
38 unless the price charged by the seller is attributable to additional costs
39 imposed by the seller's supplier or other costs of providing the good
40 or service during the state of emergency;

41 (2) In those situations where the increase in price is attributable to
42 additional costs imposed by the seller's supplier or additional costs of
43 providing the good or service during the state of emergency, the price
44 represents an increase of more than 10 percent in the amount of
45 markup from cost, compared to the markup customarily applied by the
46 seller in the usual course of business immediately prior to the state of

A1560 ZISA, GILL

3

1 emergency.

2 "State of emergency" means a natural or man-made disaster or
3 emergency for which a state of emergency has been declared by the
4 President of the United States or the Governor, or for which a state of
5 emergency has been declared by a municipal emergency management
6 coordinator.

7

8 3. It shall be an unlawful practice for any person to sell or offer to
9 sell any essential consumer good or service during a state of
10 emergency or within 30 days of the termination of a state of
11 emergency, in the area for which the state of emergency has been
12 declared, for a price that constitutes an excessive price increase.

13

14 4. This act shall take effect immediately.

ASSEMBLY CONSUMER AFFAIRS AND REGULATED
PROFESSIONS COMMITTEE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1560

STATE OF NEW JERSEY

DATED: AUGUST 21, 2000

The Assembly Consumer Affairs and Regulated Professions Committee reports favorably Assembly Bill No. 1560.

This bill prohibits the charging of an excessive price for an essential consumer good or service during a state of emergency or within 30 days of the termination of a state of emergency. The bill defines a state of emergency as a natural or man-made disaster or emergency for which a state of emergency has been declared by the President of the United States or the Governor, or for which a state of local disaster emergency has been proclaimed by a municipal emergency management coordinator.

The bill defines an excessive price as a price that is excessive as compared to the price at which the consumer good or service was sold or offered for sale by the seller in the usual course of business immediately prior to the state of emergency. A price shall be deemed excessive if the price exceeds by more than 10 percent the price at which the good or service was sold or offered for sale by the seller in the usual course of business immediately prior to the state of emergency, unless the price charged by the seller is attributable to additional costs imposed by the seller's supplier or other costs of providing the good or service during the state of emergency. In those situations where the increase in price is attributable to additional costs imposed by the seller's supplier or additional costs of providing the good or service during the state of emergency, the price shall be deemed excessive if it represents an increase of more than 10 percent in the amount of markup from cost, compared to the markup customarily applied by the seller in the usual course of business immediately prior to the state of emergency.

The bill provides that it is an unlawful practice under the consumer fraud law to charge an excessive price during a state of emergency, thereby subjecting violators to a penalty of not more than \$7,500 for a first offense and not more than \$15,000 for the second and each subsequent offense.

This bill was pre-filed for introduction in the 2000-2001 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY SUBSTITUTE FOR
ASSEMBLY, Nos. 892 and 1560

STATE OF NEW JERSEY
209th LEGISLATURE

ADOPTED OCTOBER 3, 2001

Sponsored by:

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

Assemblyman PETER J. BIONDI

District 16 (Morris and Somerset)

Assemblyman CHARLES "KEN" ZISA

District 37 (Bergen)

Assemblywoman NIA H. GILL

District 27 (Essex)

SYNOPSIS

Prohibits sale of certain merchandise at excessive prices during certain emergencies.

CURRENT VERSION OF TEXT

Substitute as adopted by the General Assembly.



1 AN ACT prohibiting excessive price increases at certain times and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. The Legislature finds and declares that during emergencies and
8 major disasters, including, but not limited to, earthquakes, fires, floods
9 or civil disturbances, some merchants have taken unfair advantage of
10 consumers by greatly increasing prices for certain merchandise. While
11 the pricing of merchandise is generally best left to the marketplace
12 under ordinary conditions, when a declared state of emergency results
13 in abnormal disruptions of the market, the public interest requires that
14 excessive and unjustified price increases in the sale of certain
15 merchandise be prohibited. It is the intention of the Legislature to
16 prohibit excessive and unjustified price increases in the sale of certain
17 merchandise during declared states of emergency in New Jersey.

18

19 2. As used in this act:

20 "Excessive price increase" means a price that is excessive as
21 compared to the price at which the consumer good or service was sold
22 or offered for sale by the seller in the usual course of business
23 immediately prior to the state of emergency. A price shall be deemed
24 excessive if:

25 (1) The price exceeds by more than 10 percent the price at which
26 the good or service was sold or offered for sale by the seller in the
27 usual course of business immediately prior to the state of emergency,
28 unless the price charged by the seller is attributable to additional costs
29 imposed by the seller's supplier or other costs of providing the good
30 or service during the state of emergency;

31 (2) In those situations where the increase in price is attributable
32 to additional costs imposed by the seller's supplier or additional costs
33 of providing the good or service during the state of emergency, the
34 price represents an increase of more than 10 percent in the amount of
35 markup from cost, compared to the markup customarily applied by the
36 seller in the usual course of business immediately prior to the state of
37 emergency.

38 "State of emergency" means a natural or man-made disaster or
39 emergency for which a state of emergency has been declared by the
40 President of the United States or the Governor, or for which a state of
41 emergency has been declared by a municipal emergency management
42 coordinator.

43

44 3. It shall be an unlawful practice for any person to sell or offer to
45 sell during a state of emergency or within 30 days of the termination
46 of a state of emergency, in the area for which the state of emergency
47 has been declared, any merchandise which is consumed or used as a

1 direct result of an emergency or which is consumed or used to
2 preserve, protect, or sustain the life, health, safety or comfort of
3 persons or their property for a price that constitutes an excessive price
4 increase.

5
6 4. This act shall take effect immediately.
7
8

9 STATEMENT
10

11 This bill prohibits the charging of an excessive price for certain
12 merchandise during a state of emergency or within 30 days of the
13 termination of a state of emergency. The bill defines a state of
14 emergency as a natural or man-made disaster or emergency for which
15 a state of emergency has been declared by the President of the United
16 States or the Governor, or for which a state of local disaster
17 emergency has been proclaimed by a municipal emergency
18 management coordinator. Pursuant to the consumer fraud law, which
19 this bill supplements, merchandise is defined as including any objects,
20 wares, goods, commodities, services or anything offered, directly or
21 indirectly to the public for sale.

22 The bill defines an excessive price as a price that is excessive as
23 compared to the price at which the consumer good or service was sold
24 or offered for sale by the seller in the usual course of business
25 immediately prior to the state of emergency. A price shall be deemed
26 excessive if the price exceeds by more than 10 percent the price at
27 which the good or service was sold or offered for sale by the seller in
28 the usual course of business immediately prior to the state of
29 emergency, unless the price charged by the seller is attributable to
30 additional costs imposed by the seller's supplier or other costs of
31 providing the good or service during the state of emergency. In those
32 situations where the increase in price is attributable to additional costs
33 imposed by the seller's supplier or additional costs of providing the
34 good or service during the state of emergency, the price shall be
35 deemed excessive if it represents an increase of more than 10 percent
36 in the amount of markup from cost, compared to the markup
37 customarily applied by the seller in the usual course of business
38 immediately prior to the state of emergency.

39 The bill provides that it is an unlawful practice under the consumer
40 fraud law to charge an excessive price during a state of emergency or
41 within 30 days of the termination of a state of emergency any
42 merchandise which is consumed or used as a direct result of an
43 emergency or which is consumed or used to preserve, protect, or
44 sustain the life, health, safety or comfort of persons or their property.
45 By supplementing the consumer fraud law, this bill subjects violators
46 to a penalty of not more than \$7,500 for a first offense and not more
47 than \$15,000 for the second and each subsequent offense.

P.L. 2001, CHAPTER 297, *approved January 2, 2002*
Senate, No. 23

1 **AN ACT** prohibiting excessive price increases at certain times and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. The Legislature finds and declares that during emergencies and
8 major disasters, including, but not limited to, earthquakes, fires, floods
9 or civil disturbances, some merchants have taken unfair advantage of
10 consumers by greatly increasing prices for certain merchandise. While
11 the pricing of merchandise is generally best left to the marketplace
12 under ordinary conditions, when a declared state of emergency results
13 in abnormal disruptions of the market, the public interest requires that
14 excessive and unjustified price increases in the sale of certain
15 merchandise be prohibited. It is the intention of the Legislature to
16 prohibit excessive and unjustified price increases in the sale of certain
17 merchandise during declared states of emergency in New Jersey.

18

19 2. As used in this act:

20 "Excessive price increase" means a price that is excessive as
21 compared to the price at which the consumer good or service was sold
22 or offered for sale by the seller in the usual course of business
23 immediately prior to the state of emergency. A price shall be deemed
24 excessive if:

25 (1) The price exceeds by more than 10 percent the price at which
26 the good or service was sold or offered for sale by the seller in the
27 usual course of business immediately prior to the state of emergency,
28 unless the price charged by the seller is attributable to additional costs
29 imposed by the seller's supplier or other costs of providing the good
30 or service during the state of emergency;

31 (2) In those situations where the increase in price is attributable to
32 additional costs imposed by the seller's supplier or additional costs of
33 providing the good or service during the state of emergency, the price
34 represents an increase of more than 10 percent in the amount of
35 markup from cost, compared to the markup customarily applied by the
36 seller in the usual course of business immediately prior to the state of
37 emergency.

38 "State of emergency" means a natural or man-made disaster or
39 emergency for which a state of emergency has been declared by the
40 President of the United States or the Governor, or for which a state of
41 emergency has been declared by a municipal emergency management
42 coordinator.

1 3. It shall be an unlawful practice for any person to sell or offer to
2 sell during a state of emergency or within 30 days of the termination
3 of a state of emergency, in the area for which the state of emergency
4 has been declared, any merchandise which is consumed or used as a
5 direct result of an emergency or which is consumed or used to
6 preserve, protect, or sustain the life, health, safety or comfort of
7 persons or their property for a price that constitutes an excessive price
8 increase.

9

10 4. This act shall take effect immediately.

11

12

13

STATEMENT

14

15 This bill prohibits the charging of an excessive price for certain
16 merchandise during a state of emergency or within 30 days of the
17 termination of a state of emergency. The bill defines a state of
18 emergency as a natural or man-made disaster or emergency for which
19 a state of emergency has been declared by the President of the United
20 States or the Governor, or for which a state of local disaster
21 emergency has been proclaimed by a municipal emergency
22 management coordinator. Pursuant to the consumer fraud law, which
23 this bill supplements, merchandise is defined as including any objects,
24 wares, goods, commodities, services or anything offered, directly or
25 indirectly to the public for sale.

26

27 The bill defines an excessive price as a price that is excessive as
28 compared to the price at which the consumer good or service was sold
29 or offered for sale by the seller in the usual course of business
30 immediately prior to the state of emergency. A price shall be deemed
31 excessive if the price exceeds by more than 10 percent the price at
32 which the good or service was sold or offered for sale by the seller in
33 the usual course of business immediately prior to the state of
34 emergency, unless the price charged by the seller is attributable to
35 additional costs imposed by the seller's supplier or other costs of
36 providing the good or service during the state of emergency. In those
37 situations where the increase in price is attributable to additional costs
38 imposed by the seller's supplier or additional costs of providing the
39 good or service during the state of emergency, the price shall be
40 deemed excessive if it represents an increase of more than 10 percent
41 in the amount of markup from cost, compared to the markup
42 customarily applied by the seller in the usual course of business
43 immediately prior to the state of emergency.

44

45 The bill provides that it is an unlawful practice under the consumer
46 fraud law to charge an excessive price during a state of emergency or
within 30 days of the termination of a state of emergency any
merchandise which is consumed or used as a direct result of an

1 emergency or which is consumed or used to preserve, protect, or
2 sustain the life, health, safety or comfort of persons or their property.
3 By supplementing the consumer fraud law, this bill subjects violators
4 to a penalty of not more than \$7,500 for a first offense and not more
5 than \$15,000 for the second and each subsequent offense.

6

7

8

9

10 Prohibits sale of certain merchandise at excessive prices during certain
11 emergencies.

CHAPTER 297

AN ACT prohibiting excessive price increases at certain times and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.56:8-107 Findings, declarations relative to excessive price increases at certain times.

1. The Legislature finds and declares that during emergencies and major disasters, including, but not limited to, earthquakes, fires, floods or civil disturbances, some merchants have taken unfair advantage of consumers by greatly increasing prices for certain merchandise. While the pricing of merchandise is generally best left to the marketplace under ordinary conditions, when a declared state of emergency results in abnormal disruptions of the market, the public interest requires that excessive and unjustified price increases in the sale of certain merchandise be prohibited. It is the intention of the Legislature to prohibit excessive and unjustified price increases in the sale of certain merchandise during declared states of emergency in New Jersey.

C.56:8-108 Definitions relative to excessive price increases at certain times.

2. As used in this act:

"Excessive price increase" means a price that is excessive as compared to the price at which the consumer good or service was sold or offered for sale by the seller in the usual course of business immediately prior to the state of emergency. A price shall be deemed excessive if:

(1) The price exceeds by more than 10 percent the price at which the good or service was sold or offered for sale by the seller in the usual course of business immediately prior to the state of emergency, unless the price charged by the seller is attributable to additional costs imposed by the seller's supplier or other costs of providing the good or service during the state of emergency;

(2) In those situations where the increase in price is attributable to additional costs imposed by the seller's supplier or additional costs of providing the good or service during the state of emergency, the price represents an increase of more than 10 percent in the amount of markup from cost, compared to the markup customarily applied by the seller in the usual course of business immediately prior to the state of emergency.

"State of emergency" means a natural or man-made disaster or emergency for which a state of emergency has been declared by the President of the United States or the Governor, or for which a state of emergency has been declared by a municipal emergency management coordinator.

C.56:8-109 Unlawful practice to sell merchandise at excessive price during emergency.

3. It shall be an unlawful practice for any person to sell or offer to sell during a state of emergency or within 30 days of the termination of a state of emergency, in the area for which the state of emergency has been declared, any merchandise which is consumed or used as a direct result of an emergency or which is consumed or used to preserve, protect, or sustain the life, health, safety or comfort of persons or their property for a price that constitutes an excessive price increase.

4. This act shall take effect immediately.

Approved January 2, 2002.