

CHAPTER NO. 807

SENATE BILL NO. 2503

By Crutchfield, Williams, Crowe, Fowler, Person, Burks

Substituted for: House Bill No. 2234

By Odom, Pinion, Todd, Garrett, Kent, Ralph Cole, Hagood, Towns, Pleasant, Cooper

AN ACT To amend Tennessee Code Annotated, Title 47, Chapter 18 and Title 58, Chapter 2, relative to price-gouging.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Tennessee Price-Gouging Act of 2002".

SECTION 2. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding the following new part:

47-18-5101. The General Assembly finds and declares that:

(1) The threats of terrorism are real and could impose horrific social and economic damage on Tennessee;

(2) Terrorist attacks can dismantle the stability of markets and free trade;

(3) Pricing of consumer goods and services is generally best left to the marketplace under ordinary conditions, but when a declared state of emergency results in abnormal disruptions of the market, the public interest requires that excessive and unjustified increases in the prices of consumer goods and services should be discouraged;

(4) Because of the September 11, 2001, terrorist attacks that took place in New York and Arlington, Virginia, some businesses across Tennessee engaged in the economic practice commonly known as price-gouging;

(5) Protecting the public from price-gouging is a vital function of state government in providing for the health, safety, and welfare of consumers;

(6) The intent of the General Assembly in enacting this act is to protect citizens from excessive and unjustified increases in the prices charged during or shortly after a declared state of emergency for goods and services that are vital or necessary for the consumer. Further, it is the intent of the General Assembly that this act be liberally construed so that its beneficial purposes may be served.

47-18-5102. As used in this part, unless the context otherwise requires:

(1) "Building materials" means lumber, construction tools, windows, and anything else used in the building or rebuilding of property.

(2) "Consumer food item" means any article that is used or intended for use for food, drink, confection, or condiment by a person or animal.

(3) "Emergency supplies" includes, but is not limited to, water, flashlights, radios, batteries, candles, blankets, soap, diapers, temporary shelters, tape, toiletries, plywood, nails, and hammers.

(4) "Gasoline" means any fuel used to power any motor vehicle or power tool.

(5) "Goods" has the same meaning as provided in Section 47-18-103(5).

(6) "Housing" means any rental housing leased on a month-to-month term.

(7) "Medical supplies" includes, but is not limited to, prescription and nonprescription medications, bandages, gauze, isopropyl alcohol, and antibacterial products.

(8) "Person" has the same meaning as provided in Section 47-18-103(9).

(9) "Repair or reconstruction services" means services performed by any person for repairs to residential or commercial property of any type that is damaged as a result of a disaster or terrorist attack.

(10) "Services" has the same meaning as provided in Section 47-18-103(10).

(11) "State of Emergency" means a natural or man-made disaster or emergency resulting from terrorist attack, war, strike, civil disturbance, tornado, earthquake, fire, flood, or any other natural disaster declared by the President of the United States or by the Governor pursuant to Title 58, Chapter 2, Part 1.

(12) "Transportation, freight, and storage services" means any service that is performed by any company that contracts to move, store, or transport personal or business property or rents equipment for those purposes.

47-18-5103. Upon the proclamation of a state of emergency and continuing until the state of emergency is terminated, it is unlawful, in any county or municipality covered by the state of emergency, for any person to charge any other person a price for any consumer food item; repair or construction services; emergency supplies; medical supplies; building materials; gasoline; transportation, freight, and storage services; or housing, that is grossly in excess of the price generally charged for the same or similar goods or services in the usual course of business immediately prior to the events giving rise to the state of emergency. An otherwise grossly excessive price increase shall not be unlawful if the person charging such higher price establishes by prima facie evidence

that the increase was directly attributable to additional costs imposed on it by the supplier of the goods or services, or was directly attributable to additional costs for labor or materials used to provide the goods or services.

47-18-5104. (a) Violation of any provision of this part, or any rules and regulations promulgated hereunder, constitutes an unfair or deceptive act or practice under Section 47-18-104(a); provided, that no criminal penalty shall be incurred for violation of this part. A civil action for violation of this part may be brought under Title 47, Chapter 18, Part 1.

(b) The remedies and penalties provided in this section are cumulative. Nothing in this part shall pre-empt any local ordinance prohibiting the same or similar conduct or imposing a more severe penalty for the same conduct prohibited in this part.

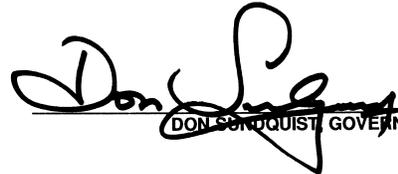
SECTION 3. This act shall take effect July 1, 2002, the public welfare requiring it.

PASSED: May 29, 2002


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 11th day of June 2002


DON SUNDQUIST, GOVERNOR