
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1342 Session of
2000

INTRODUCED BY RHOADES, MARCH 16, 2000

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
MARCH 16, 2000

AN ACT

1 Prohibiting the act of price gouging; and providing for a
2 penalty.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Price Gouging
7 Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Abnormal disruption of the market." Any change in the
13 market, whether actual or imminently threatened, resulting from
14 a disaster, local emergency, or other cause of an abnormal
15 disruption of the market.

16 "Chain of distribution." A manufacturer, supplier,
17 wholesaler, distributor or retail seller of consumer goods or

1 services.

2 "Consumer goods or services." Any raw or processed natural
3 resources, commodities, goods or services of any kind which bear
4 a substantial relationship to the health, safety, welfare and
5 economic well-being of the citizens of this Commonwealth. The
6 term also includes any repairs made by a person within the chain
7 of distribution on an emergency basis as a result of the
8 abnormal disruption of the market.

9 "Disaster." A manmade disaster, natural disaster, war-caused
10 disaster or resource shortage.

11 "Economic disaster emergency." Those economic conditions
12 which by investigation may be found, actually or likely, to:

13 (1) Seriously affect the safety, health, welfare or
14 economic well-being of a substantial number of citizens of
15 this Commonwealth or preclude the operation or use of
16 essential public facilities.

17 (2) Be of such magnitude or severity as to render State
18 intervention essential, or to require State supplementation
19 of county and local efforts or resources exerted or utilized
20 in alleviating the danger, damage, suffering or hardship
21 faced.

22 "Local emergency." The condition declared by the local
23 governing body when in its judgment the threat or actual
24 occurrence of a disaster is or threatens to be of sufficient
25 severity and magnitude to warrant coordinated local government
26 action to prevent or alleviate the damage, loss, hardship or
27 suffering threatened or caused thereby. A local emergency
28 arising wholly or substantially out of a resource shortage may
29 be declared only by the Governor, upon petition of the local
30 governing body, when he deems the threat or actual occurrence of

1 a disaster to be of sufficient severity and magnitude to warrant
2 coordinated local government action to prevent or alleviate the
3 damage, loss, hardship or suffering threatened or caused
4 thereby.

5 "Manmade disaster." Any industrial, nuclear or
6 transportation accident, explosion, conflagration, power
7 failure, natural resource shortage or other condition, except
8 enemy action, resulting from manmade causes, such as oil spills
9 and other injurious environmental contamination which threatens
10 or causes substantial damage to property, human suffering,
11 hardship or loss of life.

12 "Natural disaster." Any hurricane, tornado, storm, flood,
13 high water, wind-driven water, tidal wave, earthquake,
14 landslide, mudslide, snowstorm, drought, fire, explosion or
15 other catastrophe which results in substantial damage to
16 property, hardship, suffering or possible loss of life.

17 "Person." An individual, corporation, firm, association,
18 public utility, trust, estate, public or private institution,
19 group, the Commonwealth or a local agency or political
20 subdivision and any legal successor, representative or agency of
21 the foregoing.

22 "Resource shortage." The absence, unavailability or reduced
23 supply of any consumer goods or services.

24 "War-caused disaster." Any condition following an attack
25 upon the United States resulting in substantial damage to
26 property or injury to persons in the United States caused by use
27 of bombs, missiles, shellfire, nuclear, radiological, chemical
28 or biological means, or other weapons or overt paramilitary
29 actions, or other conditions such as sabotage.

30 Section 3. Price gouging.

1 Whenever an abnormal disruption of the market exists during
2 the period of an economic disaster emergency declared by the
3 Governor, no person within the chain of distribution shall sell
4 or offer to sell any consumer goods or services for an amount
5 which represents an unconscionably excessive price pursuant to
6 section 4.

7 Section 4. Unconscionably excessive price.

8 (a) Question for court.--Whether a price is unconscionably
9 excessive is a question of law for the court.

10 (b) Violation.--The court's determination that a violation
11 of this act has occurred shall be based on any of the following
12 factors:

13 (1) There was an exercise of unfair leverage or
14 unconscionable means.

15 (2) The amount of the excess in price is unconscionably
16 extreme.

17 (3) A combination of both factors in paragraphs (1) and
18 (2).

19 (c) Evidence.--In any proceeding commenced pursuant to
20 section 5, prima facie proof that a violation of this act has
21 occurred shall include evidence that:

22 (1) The amount charged represents a gross disparity
23 between the price of the consumer goods or services which
24 were the subject of the transaction and their value measured
25 by the price at which such items were sold or offered for
26 sale by the defendant in the usual course of business
27 immediately prior to the onset of the abnormal disruption of
28 the market.

29 (2) The amount charged grossly exceeded the price at
30 which the same or similar consumer goods or services were

1 readily obtainable by other consumers in the trade area.

2 (d) Rebuttal.--A defendant charged with a violation of this
3 act may rebut a prima facie case with evidence that additional
4 costs not within the control of the defendant were imposed on
5 the defendant for the consumer goods or services.

6 Section 5. Proceedings.

7 Whenever a violation of this act is alleged to have occurred,
8 the Attorney General may prosecute a defendant in the court of
9 common pleas within the judicial district where such violations
10 are alleged to have occurred, may apply to the court of common
11 pleas with the judicial district where such violations are
12 alleged to have occurred for an order enjoining or restraining
13 commission or continuance of the alleged unlawful acts, or may
14 do both of the above.

15 Section 6. Penalty.

16 A court of common pleas shall impose a civil penalty for a
17 violation of this act in an amount not to exceed \$10,000 and
18 may, where appropriate, order restitution to an aggrieved
19 consumer.

20 Section 7. Effective date.

21 This act shall take effect in 60 days.