

HOUSE BILL 332

E4, I3

3lr0699
CF SB 185

By: **Delegates Pena–Melnyk, Zucker, Barkley, Barnes, Braveboy, Cullison, Frush, Gaines, A. Kelly, Love, Luedtke, A. Miller, Rosenberg, ~~and Summers~~ Summers, Hammen, and Pendergrass**

Introduced and read first time: January 24, 2013

Assigned to: Health and Government Operations

Re–referred to: Economic Matters, February 20, 2013

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 2013

CHAPTER _____

1 AN ACT concerning

2 **Public Safety – Emergency Management – Essential Goods and Services**

3 FOR the purpose of prohibiting a person from selling or offering to sell certain goods
4 and services for a certain price during a state of emergency; ~~prohibiting a~~
5 ~~person from selling or offering to sell certain services for a certain price during a~~
6 ~~state of emergency and for a certain amount of time following a state of~~
7 ~~emergency~~; creating certain exceptions; requiring the Office of the Attorney
8 General to provide a person an opportunity to present evidence that a price
9 increase was not unlawful; providing that a certain sale or offer for sale is an
10 unfair or deceptive trade practice; providing that certain remedies and penalties
11 do not apply to a certain sale or offer for sale of certain goods and services;
12 altering a certain definition; defining certain terms; and generally relating to
13 the sale of goods and services during or following a state of emergency.

14 BY repealing and reenacting, without amendments,
15 Article – Public Safety
16 Section 14–101(a)
17 Annotated Code of Maryland
18 (2011 Replacement Volume and 2012 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Public Safety

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 14–101(c)
2 Annotated Code of Maryland
3 (2011 Replacement Volume and 2012 Supplement)

4 BY adding to
5 Article – Public Safety
6 Section 14–1101 through 14–1104 to be under the new subtitle “Subtitle 11.
7 Essential Goods and Services”
8 Annotated Code of Maryland
9 (2011 Replacement Volume and 2012 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article – Public Safety**

13 14–101.

14 (a) In this subtitle the following words have the meanings indicated.

15 (c) “Emergency” means the threat or occurrence of:

16 (1) a hurricane, tornado, storm, flood, high water, wind–driven water,
17 tidal wave, earthquake, landslide, mudslide, snowstorm, drought, fire, explosion, and
18 any other disaster in any part of the State that requires State assistance to
19 supplement local efforts in order to save lives and protect public health and safety;
20 [or]

21 (2) an enemy attack, act of terrorism, or public health catastrophe; OR

22 (3) FOR PURPOSES OF SUBTITLE 11 OF THIS TITLE ONLY, A
23 CRITICAL SHORTAGE IN THE STATE OF ESSENTIAL GOODS AND SERVICES AS
24 DEFINED IN § 14–1101 OF THIS TITLE.

25 **SUBTITLE 11. ESSENTIAL GOODS AND SERVICES.**

26 14–1101.

27 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
28 INDICATED.

29 (B) “BUILDING MATERIALS” MEANS ANY ITEM, OBJECT, OR OTHER
30 THING USED IN THE BUILDING OR REBUILDING OF REAL PROPERTY, INCLUDING
31 LUMBER, CONSTRUCTION TOOLS, AND WINDOWS.

1 (C) “EMERGENCY SUPPLIES” INCLUDES WATER, FLASHLIGHTS, RADIOS,
2 BATTERIES, CANDLES, BLANKETS, SOAP, DIAPERS, TEMPORARY SHELTERS,
3 TAPE, TOILETRIES, PLYWOOD, NAILS, AND HAMMERS.

4 (D) “ESSENTIAL GOODS AND SERVICES” MEANS ANY OF THE
5 FOLLOWING, IF SPECIFIED BY CATEGORY OR BY INDIVIDUAL ITEMS IN AN
6 EXECUTIVE ORDER OF THE GOVERNOR IN CONNECTION WITH AND DIRECTLY
7 RELATED TO A STATE OF EMERGENCY:

8 (1) FOOD ITEMS;

9 ~~(2) CONSUMER GOODS AND SERVICES;~~

10 ~~(3)~~ (2) GOODS AND SERVICES USED FOR EMERGENCY
11 CLEANUP;

12 ~~(4)~~ (3) EMERGENCY SUPPLIES;

13 ~~(5)~~ (4) MEDICAL SUPPLIES AND EQUIPMENT;

14 ~~(6)~~ (5) HOME HEATING OIL;

15 ~~(7)~~ (6) BUILDING MATERIALS;

16 ~~(8)~~ (7) HOUSING;

17 ~~(9)~~ (8) TRANSPORTATION, FREIGHT, AND STORAGE SERVICES;
18 OR

19 ~~(10)~~ (9) GASOLINE.

20 (E) “FOOD ITEM” MEANS ANY ARTICLE THAT IS USED OR INTENDED FOR
21 USE FOR FOOD OR DRINK.

22 (F) “FUEL” MEANS GASOLINE, DIESEL, OR OTHER FUEL USED TO
23 POWER A MOTOR VEHICLE OR POWER TOOL.

24 (G) (1) “HOUSING” MEANS RENTAL HOUSING.

25 (2) “HOUSING” INCLUDES HOUSING PROVIDED BY A HOTEL OR
26 MOTEL.

27 (H) “MEDICAL SUPPLIES OR EQUIPMENT” INCLUDES PRESCRIPTION
28 AND NONPRESCRIPTION MEDICATIONS, VACCINES, BANDAGES, GAUZE,

1 ISOPROPYL ALCOHOL, MEDICAL EQUIPMENT, ANTIVIRAL PRODUCTS, AND
2 ANTIBACTERIAL PRODUCTS.

3 (I) "PRICE" MEANS RETAIL OR WHOLESALE PRICE.

4 ~~(J) "REPAIR OR RECONSTRUCTION SERVICES" MEANS SERVICES~~
5 ~~PERFORMED BY A PERSON FOR REPAIRS TO RESIDENTIAL OR COMMERCIAL~~
6 ~~PROPERTY THAT IS DAMAGED AS A RESULT OF A DISASTER OR TERRORIST~~
7 ~~ATTACK.~~

8 ~~(K)~~ (J) "REPLACEMENT COSTS" MEANS:

9 (1) ACQUISITION COSTS;

10 (2) COSTS THAT ARE A RESULT OF A CONTRACT IN WHICH THE
11 ESSENTIAL GOODS AND SERVICES ARE PRICED ACCORDING TO A FORMULA
12 THAT REFERENCES PUBLISHED MARKET PRICES; OR

13 (3) THE ACTUAL OR REASONABLY CONTEMPLATED COSTS OF
14 REPLACING AN ESSENTIAL GOOD OR SERVICE BEING SOLD, BASED ON
15 INFORMATION AVAILABLE AT THE TIME OF THE INCREASE IN PRICE.

16 ~~(L)~~ (K) "STATE OF EMERGENCY" MEANS A STATE OF EMERGENCY
17 DECLARED BY THE GOVERNOR UNDER § 14-107 OF THIS TITLE.

18 ~~(M)~~ (L) "TRANSPORTATION, FREIGHT, AND STORAGE SERVICES"
19 MEANS SERVICES PERFORMED BY A PERSON UNDER A CONTRACT TO MOVE,
20 STORE, OR TRANSPORT PERSONAL OR BUSINESS PROPERTY OR RENT
21 EQUIPMENT FOR THOSE PURPOSES.

22 14-1102.

23 (A) EXCEPT AS PROVIDED IN SUBSECTION ~~(C)~~ (B) OF THIS SECTION,
24 DURING A STATE OF EMERGENCY, IN THE GEOGRAPHIC AREA COVERED BY THE
25 DECLARATION OF THE STATE OF EMERGENCY, A PERSON MAY NOT SELL OR
26 OFFER TO SELL ESSENTIAL GOODS AND SERVICES SPECIFIED BY EXECUTIVE
27 ORDER OF THE GOVERNOR, ~~OTHER THAN SERVICES USED FOR EMERGENCY~~
28 ~~CLEANUP~~, FOR A PRICE OF MORE THAN ~~15%~~ 20% ABOVE THE HIGHEST PRICE AT
29 WHICH THE PERSON MADE ACTUAL SALES OR RENTALS OF THOSE ESSENTIAL
30 GOODS OR SERVICES NOT MORE THAN 60 DAYS OR LESS THAN 4 DAYS BEFORE
31 THE STATE OF EMERGENCY.

32 ~~(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,~~
33 ~~DURING A STATE OF EMERGENCY, AND FOR THE FOLLOWING 90 DAYS, A PERSON~~

~~1 MAY NOT SELL OR OFFER TO SELL REPAIR OR RECONSTRUCTION SERVICES OR
2 SERVICES USED FOR EMERGENCY CLEANUP FOR A PRICE OF MORE THAN 15%
3 20% ABOVE THE PRICE CHARGED BY THE PERSON FOR THOSE SERVICES
4 IMMEDIATELY BEFORE THE STATE OF EMERGENCY.~~

5 ~~(C)~~ (B) A PERSON MAY CHARGE A PRICE INCREASE OF MORE THAN
6 ~~15%~~ 20% IF THE PERSON CAN PROVE THAT:

7 (1) THE PRICE INCREASE WAS DIRECTLY ATTRIBUTABLE TO
8 ADDITIONAL COSTS IMPOSED ON THE PERSON BY THE SUPPLIER OF THE GOODS,
9 INCLUDING REPLACEMENT COSTS, COSTS OF CREDIT, AND CREDIT CARD
10 PROCESSING COSTS; OR

11 (2) THE PRICE INCREASE WAS DIRECTLY ATTRIBUTABLE TO
12 ADDITIONAL COSTS FOR LABOR OR MATERIALS USED TO PROVIDE THE
13 SERVICES OR TO PRODUCE THE GOODS, INCLUDING COSTS TO REPAIR ANY
14 DAMAGE RELATING TO THE STATE OF EMERGENCY.

15 ~~(D)~~ (C) AT LEAST 20 DAYS BEFORE AN ACTION IS FILED UNDER
16 § 14-1103 OF THIS SUBTITLE, THE OFFICE OF THE ATTORNEY GENERAL SHALL
17 PROVIDE A PERSON WHOSE ACTIONS MAY BE IN VIOLATION OF THIS SECTION
18 NOTICE OF THE GENERAL RELIEF SOUGHT BY THE OFFICE TO PROVIDE THE
19 PERSON AN OPPORTUNITY TO PRESENT EVIDENCE THAT THE PRICE INCREASE
20 WAS IN ACCORDANCE WITH SUBSECTION ~~(C)~~ (B) OF THIS SECTION.

21 14-1103.

22 A SALE OR OFFER FOR SALE OF ESSENTIAL GOODS AND SERVICES THAT
23 VIOLATES THIS SUBTITLE IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE
24 UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE, EXCEPT THAT THE
25 REMEDIES AND PENALTIES PROVIDED UNDER §§ 13-408 AND 13-411 OF THE
26 COMMERCIAL LAW ARTICLE MAY NOT APPLY TO A VIOLATION OF THIS
27 SUBTITLE.

28 14-1104.

29 THE SECRETARY OF STATE SHALL ADOPT REGULATIONS TO ESTABLISH A
30 SYSTEM BY WHICH A PERSON MAY REGISTER TO RECEIVE ELECTRONIC
31 NOTIFICATION:

32 (1) STATING THAT A STATE OF EMERGENCY HAS BEEN DECLARED
33 AND AN EXECUTIVE ORDER HAS BEEN ISSUED;

1 **(2)** STATING THAT THE PROVISIONS OF THIS SUBTITLE ARE IN
2 EFFECT; AND

3 **(3)** LISTING THE CATEGORIES OR INDIVIDUAL ESSENTIAL GOODS
4 AND SERVICES THAT ARE COVERED BY THE EXECUTIVE ORDER OF THE
5 GOVERNOR.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.