
By: **Senators Green, Della, Forehand, Frosh, Gladden, Hollinger,
Klausmeier, Pinsky, Stone, and Teitelbaum**

Introduced and read first time: February 2, 2005

Assigned to: Judicial Proceedings

A BILL ENTITLED

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 or services for a certain price during a state of emergency; prohibiting a person
5 from selling or offering to sell certain services for a certain price during a state
6 of emergency and for a certain amount of time following a state of emergency;
7 creating a certain exception; providing for certain criminal penalties; providing
8 that certain provisions may be extended by certain officials for certain time
9 periods under certain circumstances; providing that certain remedies are
10 cumulative to certain remedies or penalties; providing that a certain sale or offer
11 for sale is an unfair or deceptive trade practice; providing that nothing in this
12 subtitle shall preempt a certain ordinance; defining certain terms; and generally
13 relating to the sale of goods or services during or following a state of emergency.

14 BY adding to

15 Article - Public Safety

16 Section 14-1101 through 14-1105 to be under the new subtitle "Subtitle 11.

17 Essential Goods and Services"

18 Annotated Code of Maryland

19 (2003 Volume and 2004 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article - Public Safety**

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

24 14-1101.

25 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
26 INDICATED.

1 (B) "BUILDING MATERIALS" MEANS ANY ITEM, OBJECT, OR OTHER THING
2 USED IN THE BUILDING OR REBUILDING OF REAL PROPERTY, INCLUDING LUMBER,
3 CONSTRUCTION TOOLS, AND WINDOWS.

4 (C) "CATASTROPHIC HEALTH EMERGENCY" HAS THE MEANING STATED IN §
5 14-3A-01(B) OF THIS ARTICLE.

6 (D) "CONSUMER GOODS OR SERVICES" HAS THE MEANING STATED IN §
7 13-101(D) OF THE COMMERCIAL LAW ARTICLE.

8 (E) "EMERGENCY SUPPLIES" INCLUDES WATER, FLASHLIGHTS, RADIOS,
9 BATTERIES, CANDLES, BLANKETS, SOAP, DIAPERS, TEMPORARY SHELTERS, TAPE,
10 TOILETRIES, PLYWOOD, NAILS, AND HAMMERS.

11 (F) "ESSENTIAL GOODS OR SERVICES" MEANS:

12 (1) FOOD ITEMS;

13 (2) CONSUMER GOODS OR SERVICES;

14 (3) GOODS OR SERVICES USED FOR EMERGENCY CLEANUP;

15 (4) EMERGENCY SUPPLIES;

16 (5) MEDICAL SUPPLIES OR EQUIPMENT;

17 (6) HOME HEATING OIL;

18 (7) BUILDING MATERIALS;

19 (8) HOUSING;

20 (9) TRANSPORTATION, FREIGHT, AND STORAGE SERVICES;

21 (10) GASOLINE; OR

22 (11) OTHER COMMODITIES IMPORTANT TO THE HEALTH, SAFETY, OR
23 WELFARE OF THE PUBLIC.

24 (G) "FOOD ITEM" MEANS ANY ARTICLE THAT IS USED OR INTENDED FOR USE
25 FOR FOOD, DRINK, CONFECTION, OR CONDIMENT.

26 (H) "GASOLINE" MEANS FUEL USED TO POWER A MOTOR VEHICLE OR POWER
27 TOOL.

28 (I) "HOUSING" MEANS RENTAL HOUSING AND INCLUDES HOUSING PROVIDED
29 BY A HOTEL OR MOTEL.

30 (J) "LOCAL STATE OF EMERGENCY" MEANS A LOCAL STATE OF EMERGENCY
31 DECLARED UNDER § 14-111 OF THIS ARTICLE.

1 (K) "MEDICAL SUPPLIES OR EQUIPMENT" INCLUDES PRESCRIPTION AND
2 NONPRESCRIPTION MEDICATIONS, VACCINES, BANDAGES, GAUZE, ISOPROPYL
3 ALCOHOL, MEDICAL EQUIPMENT, ANTIVIRAL PRODUCTS, AND ANTIBACTERIAL
4 PRODUCTS.

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

8 (M) "STATE OF EMERGENCY" INCLUDES:

9 (1) A STATE OF EMERGENCY DECLARED BY THE GOVERNOR UNDER §
10 14-107 OF THIS ARTICLE;

11 (2) A STATE OF EMERGENCY DECLARED BY THE PRESIDENT OF THE
12 UNITED STATES;

13 (3) A RED CONDITION IN THE HOMELAND SECURITY ADVISORY SYSTEM
14 OF EITHER THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY OR THE
15 MARYLAND EMERGENCY MANAGEMENT AGENCY;

16 (4) A CATASTROPHIC HEALTH EMERGENCY PROCLAIMED BY THE
17 GOVERNOR UNDER § 14-3A-02 OF THIS ARTICLE; OR

18 (5) A DECLARATION BY AN AGENCY OF THE UNITED STATES
19 GOVERNMENT, THE GOVERNOR, THE SECRETARY OF HEALTH AND MENTAL
20 HYGIENE; OR THE PRINCIPAL EXECUTIVE OFFICER OF A POLITICAL SUBDIVISION
21 THAT THERE IS A SHORTAGE OF OR INCREASED DEMAND FOR ESSENTIAL GOODS OR
22 SERVICES.

23 (N) "TRANSPORTATION, FREIGHT, AND STORAGE SERVICES" MEANS SERVICES
24 PERFORMED BY ANY PERSON UNDER A CONTRACT TO MOVE, STORE, OR TRANSPORT
25 PERSONAL OR BUSINESS PROPERTY OR RENT EQUIPMENT FOR THOSE PURPOSES.

26 14-1102.

27 (A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, DURING A
28 STATE OF EMERGENCY, A PERSON MAY NOT SELL OR OFFER TO SELL ESSENTIAL
29 GOODS OR SERVICES, OTHER THAN SERVICES USED FOR EMERGENCY CLEANUP, FOR
30 A PRICE OF MORE THAN 10% ABOVE THE PRICE CHARGED BY THAT PERSON FOR
31 THOSE GOODS OR SERVICES 14 DAYS PRIOR TO THE STATE OF EMERGENCY.

32 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, DURING A
33 STATE OF EMERGENCY, AND FOR THE FOLLOWING 180 DAYS, A PERSON MAY NOT
34 SELL OR OFFER TO SELL REPAIR OR RECONSTRUCTION SERVICES OR SERVICES USED
35 FOR EMERGENCY CLEANUP FOR A PRICE OF MORE THAN 10% ABOVE THE PRICE
36 CHARGED BY THAT PERSON FOR THOSE SERVICES IMMEDIATELY PRIOR TO THE
37 STATE OF EMERGENCY.

1 (C) A PERSON MAY CHARGE A PRICE INCREASE OF MORE THAN 10% IF THE
2 PERSON CAN PROVE THAT:

3 (1) THE INCREASE IN PRICE WAS DIRECTLY ATTRIBUTABLE TO
4 ADDITIONAL COSTS IMPOSED ON THE PERSON BY THE SUPPLIER OF THE GOODS; OR

5 (2) THE INCREASE IN PRICE WAS DIRECTLY ATTRIBUTABLE TO
6 ADDITIONAL COSTS FOR LABOR OR MATERIALS USED TO PROVIDE THE SERVICES;
7 AND

8 (3) THE PRICE REPRESENTS NO MORE THAN 10% ABOVE THE TOTAL
9 COST TO THE SELLER PLUS THE MARKUP CUSTOMARILY APPLIED BY THE SELLER
10 FOR THAT GOOD OR SERVICE IN THE USUAL COURSE OF BUSINESS IMMEDIATELY
11 PRIOR TO THE ONSET OF THE STATE OF EMERGENCY.

12 (D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
13 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A
14 FINE NOT EXCEEDING \$1,000 OR BOTH.

15 (E) THE PROVISIONS OF THIS SECTION MAY BE EXTENDED FOR ADDITIONAL
16 30-DAY PERIODS BY THE PRINCIPAL EXECUTIVE OFFICER OF A POLITICAL
17 SUBDIVISION OR THE GOVERNOR IF DETERMINED TO BE NECESSARY TO PROTECT
18 THE LIVES, PROPERTY, OR WELFARE OF THE CITIZENS.

19 14-1103.

20 A SALE OR OFFER FOR SALE OF CONSUMER GOODS OR SERVICES THAT
21 VIOLATES THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE IS AN
22 UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER TITLE 13 OF THE COMMERCIAL LAW
23 ARTICLE.

24 14-1104.

25 THE REMEDIES PROVIDED IN THIS SUBTITLE ARE CUMULATIVE TO EACH
26 OTHER AND TO THE REMEDIES OR PENALTIES AVAILABLE UNDER ALL OTHER LAWS.
27 14-1105.

28 THIS SUBTITLE DOES NOT PREEMPT ANY LOCAL ORDINANCE PROHIBITING OR
29 IMPOSING A MORE SEVERE PENALTY FOR THE SAME OR SIMILAR CONDUCT AS
30 PROHIBITED IN THIS ARTICLE.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2005.