

UNOFFICIAL COPY OF SENATE BILL 320
EMERGENCY BILL

E4
HB 556/05 - ECM

6lr2003
CF 6lr1781

By: **Senators Green, Britt, Conway, Della, Exum, Forehand, Frosh,
Garagiola, Gladden, Grosfeld, Hogan, Hollinger, Hughes, Jimeno, Jones,
Kasemeyer, Kelley, Klausmeier, Pinsky, Stone, and Teitelbaum**

Introduced and read first time: January 27, 2006

Assigned to: Education, Health, and Environmental Affairs

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; making this
13 Act an emergency measure; and generally relating to the sale of goods or
14 services during or following a state of emergency.

15 BY adding to

16 Article - Public Safety

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

18 Essential Goods and Services"

19 Annotated Code of Maryland

20 (2003 Volume and 2005 Supplement)

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

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

23 **Article - Public Safety**

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

25 14-1101.

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

27 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 TITLE.

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 ANY OF THE FOLLOWING
12 UNLESS EXCLUDED BY AN EXECUTIVE ORDER OF THE GOVERNOR IN CONNECTION
13 WITH A STATE OF EMERGENCY:

14 (1) FOOD ITEMS;

15 (2) CONSUMER GOODS OR SERVICES;

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

17 (4) EMERGENCY SUPPLIES;

18 (5) MEDICAL SUPPLIES OR EQUIPMENT;

19 (6) HOME HEATING OIL;

20 (7) BUILDING MATERIALS;

21 (8) HOUSING;

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

23 (10) GASOLINE; OR

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

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

28 (H) "FUEL" MEANS GASOLINE, DIESEL, OR OTHER FUEL USED TO POWER A
29 MOTOR VEHICLE OR POWER TOOL.

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

1 (J) "LOCAL STATE OF EMERGENCY" MEANS A LOCAL STATE OF EMERGENCY
2 DECLARED UNDER § 14-111 OF THIS TITLE.

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

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

10 (M) "STATE OF EMERGENCY" INCLUDES:

11 (1) A STATE OF EMERGENCY DECLARED BY THE GOVERNOR UNDER §
12 14-107 OF THIS TITLE;

13 (2) A STATE OF EMERGENCY DECLARED BY THE PRESIDENT OF THE
14 UNITED STATES;

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

18 (4) A CATASTROPHIC HEALTH EMERGENCY PROCLAIMED BY THE
19 GOVERNOR UNDER § 14-3A-02 OF THIS TITLE; OR

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

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

28 14-1102.

29 (A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, DURING A
30 STATE OF EMERGENCY, A PERSON MAY NOT SELL OR OFFER TO SELL ESSENTIAL
31 GOODS OR SERVICES NOT EXCLUDED BY EXECUTIVE ORDER OF THE GOVERNOR,
32 OTHER THAN SERVICES USED FOR EMERGENCY CLEANUP, FOR A PRICE OF MORE
33 THAN 10% ABOVE THE HIGHEST PRICE AT WHICH THAT PERSON MADE ACTUAL
34 SALES OF THOSE GOODS OR SERVICES NOT MORE THAN 60 DAYS OR LESS THAN 14
35 DAYS PRIOR TO THE STATE OF EMERGENCY.

36 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, DURING A
37 STATE OF EMERGENCY, AND FOR THE FOLLOWING 180 DAYS, A PERSON MAY NOT
38 SELL OR OFFER TO SELL REPAIR OR RECONSTRUCTION SERVICES OR SERVICES USED

1 FOR EMERGENCY CLEANUP FOR A PRICE OF MORE THAN 10% ABOVE THE PRICE
2 CHARGED BY THAT PERSON FOR THOSE SERVICES IMMEDIATELY PRIOR TO THE
3 STATE OF EMERGENCY.

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

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

8 (2) THE INCREASE IN PRICE WAS DIRECTLY ATTRIBUTABLE TO
9 ADDITIONAL COSTS FOR LABOR OR MATERIALS USED TO PROVIDE THE SERVICES;
10 AND

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

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

18 (E) THE PROVISIONS OF THIS SECTION MAY BE EXTENDED FOR ADDITIONAL
19 30-DAY PERIODS BY THE PRINCIPAL EXECUTIVE OFFICER OF A POLITICAL
20 SUBDIVISION OR THE GOVERNOR IF DETERMINED TO BE NECESSARY TO PROTECT
21 THE LIVES, PROPERTY, OR WELFARE OF THE CITIZENS.

22 14-1103.

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

27 14-1104.

28 THE REMEDIES PROVIDED IN THIS SUBTITLE ARE CUMULATIVE TO EACH
29 OTHER AND TO THE REMEDIES OR PENALTIES AVAILABLE UNDER ALL OTHER LAWS.
30 14-1105.

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

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an
35 emergency measure, is necessary for the immediate preservation of the public health
36 or safety, has been passed by a ye and nay vote supported by three-fifths of all the

1 members elected to each of the two Houses of the General Assembly, and shall take
2 effect from the date it is enacted.