

**Department of Legislative Services**  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 320

(Senator Green, *et al.*)

Judicial Proceedings and Finance

Economic Matters

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**Public Safety - Emergency Management - Essential Goods and Services**

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This emergency bill prohibits specified types of pricing for certain goods and services during or subsequent to a state of emergency declared by the Governor.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues due to the bill's monetary penalty provision. Assuming that the Consumer Protection Division receives fewer than 50 complaints per year stemming from this bill, any additional workload could be handled with existing resources. The extent to which this bill could affect purchases of goods or services by the State during a state of emergency cannot be readily predicted or quantified.

**Local Effect:** The extent to which this bill could affect purchases of goods or services by a local government during a state of emergency cannot be readily predicted or quantified.

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Bill Summary:** This bill prohibits a person, during a state of emergency, from selling or offering to sell "essential goods or services" (other than services used for emergency cleanup) for a price of more than 20% above what the person charged for those goods and services not more than 60 days or less than 14 days prior to the state of emergency. During a state of emergency, and for the next 90 days, a person may not sell or offer to

sell repair or reconstruction services (or services used for emergency cleanup) for more than 20% over what the person charged immediately prior to the state of emergency.

A charge of more than 20% may be made if the increase was directly attributable to (1) additional costs imposed by the supplier of the goods, including replacement costs; or (2) additional costs for labor or materials used to provide the services or to produce the goods, including costs to repair any related damage.

A violator is guilty of a misdemeanor and subject to a maximum penalty of a fine of \$1,000. A sale or offer for sale in violation of these provisions, or of a regulation adopted under these provisions, is an unfair and deceptive trade practice. At least 10 days before an unfair and deceptive trade practice action is filed, the Attorney General must provide notice of the relief being sought to provide the person an opportunity to present evidence that the price increase was lawful. The remedies provided under these provisions are cumulative to each other and to the remedies available under the Maryland Consumer Protection Act.

**Current Law:** If the Governor finds that an emergency has developed or is impending due to any cause, the Governor must declare a state of emergency by executive order or proclamation. The state of emergency continues until the Governor: (1) finds that the threat or danger has passed or the emergency has been dealt with to the extent that emergency conditions no longer exist; and (2) terminates the state of emergency by executive order or proclamation.

A state of emergency may not continue for longer than 30 days unless renewed by the Governor. The General Assembly by joint resolution may terminate a state of emergency at any time.

The Governor may: (1) authorize use in another state of personnel, equipment, supplies, or materials of this State, or of a political subdivision with the consent of the executive officer or governing body of the political subdivision; and (2) suspend the effect of any statute or rule or regulation of an agency of the State or, after consulting with the executive officer or governing body of a political subdivision, suspend a rule or regulation of an agency of a political subdivision if the Governor finds that the suspension is necessary to aid the State with its emergency management functions.

Only the principal executive officer of a political subdivision may declare a local state of emergency. A local state of emergency may not continue or be renewed for longer than seven days without the consent of its governing body.

**Small Business Effect:** Potential meaningful. Almost any emergency will raise costs to a retailer, who does not operate on fixed margins. In addition, the asking price for a product 14 days prior to a state of emergency (or not more than 60 days prior) may not represent a true margin for any seller for that month or year. Because all costs for a seller of goods or services, including costs for heating oil and gasoline, can fluctuate over any given 14-60 day period, this bill could negatively impact a seller by more than can be recouped under the bill's pricing limits – this may be especially true during the 90 days following the state of emergency.

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### **Additional Information**

**Prior Introductions:** HB 556 of 2005, a similar bill, received an unfavorable report from the House Economic Matters Committee.

**Cross File:** HB 580 (Delegate Rosenberg, *et al.*) – Economic Matters.

**Information Source(s):** Office of the Attorney General, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 20, 2006  
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