

HOUSE BILL 927

E4
HB 580/06 – ECM

EMERGENCY BILL

71r2419

By: **Delegate Rosenberg**

Introduced and read first time: February 9, 2007

Assigned to: Economic Matters

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 or
4 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
11 offer for sale is an unfair or deceptive trade practice; providing that nothing in
12 this subtitle shall preempt a certain ordinance; defining certain terms; making
13 this 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 2006 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**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

2 **14-1101.**

3 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
4 **INDICATED.**

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

8 **(C) “CATASTROPHIC HEALTH EMERGENCY” HAS THE MEANING STATED**
9 **IN § 14-3A-01 OF THIS TITLE.**

10 **(D) “CONSUMER GOODS” HAS THE MEANING STATED IN § 13-101 OF**
11 **THE COMMERCIAL LAW ARTICLE.**

12 **(E) “CONSUMER SERVICES” HAS THE MEANING STATED IN § 13-101 OF**
13 **THE COMMERCIAL LAW ARTICLE.**

14 **(F) “EMERGENCY SUPPLIES” INCLUDES WATER, FLASHLIGHTS,**
15 **RADIOS, BATTERIES, CANDLES, BLANKETS, SOAP, DIAPERS, TEMPORARY**
16 **SHELTERS, TAPE, TOILETRIES, PLYWOOD, NAILS, AND HAMMERS.**

17 **(G) “ESSENTIAL GOODS OR SERVICES” MEANS ANY OF THE FOLLOWING**
18 **UNLESS EXCLUDED BY AN EXECUTIVE ORDER OF THE GOVERNOR IN**
19 **CONNECTION WITH A STATE OF EMERGENCY:**

20 **(1) FOOD ITEMS;**

21 **(2) CONSUMER GOODS OR CONSUMER SERVICES;**

22 **(3) GOODS OR SERVICES USED FOR EMERGENCY CLEANUP;**

23 **(4) EMERGENCY SUPPLIES;**

24 **(5) MEDICAL SUPPLIES OR EQUIPMENT;**

25 **(6) HOME HEATING OIL;**

1 **(7) BUILDING MATERIALS;**

2 **(8) HOUSING;**

3 **(9) TRANSPORTATION, FREIGHT, AND STORAGE SERVICES;**

4 **(10) GASOLINE; OR**

5 **(11) OTHER COMMODITIES IMPORTANT TO THE HEALTH, SAFETY,**
6 **OR WELFARE OF THE PUBLIC.**

7 **(H) “FOOD ITEM” MEANS ANY ARTICLE THAT IS USED OR INTENDED FOR**
8 **USE FOR FOOD, DRINK, CONFECTION, OR CONDIMENT.**

9 **(I) “FUEL” MEANS GASOLINE, DIESEL, OR OTHER FUEL USED TO**
10 **POWER A MOTOR VEHICLE OR POWER TOOL.**

11 **(J) “HOUSING” MEANS RENTAL HOUSING AND INCLUDES HOUSING**
12 **PROVIDED BY A HOTEL OR MOTEL.**

13 **(K) “LOCAL STATE OF EMERGENCY” MEANS A LOCAL STATE OF**
14 **EMERGENCY DECLARED UNDER § 14-111 OF THIS TITLE.**

15 **(L) “MEDICAL SUPPLIES OR EQUIPMENT” INCLUDES PRESCRIPTION**
16 **AND NONPRESCRIPTION MEDICATIONS, VACCINES, BANDAGES, GAUZE,**
17 **ISOPROPYL ALCOHOL, MEDICAL EQUIPMENT, ANTIVIRAL PRODUCTS, AND**
18 **ANTIBACTERIAL PRODUCTS.**

19 **(M) “REPAIR OR RECONSTRUCTION SERVICES” MEANS SERVICES**
20 **PERFORMED BY A PERSON FOR REPAIRS TO RESIDENTIAL OR COMMERCIAL**
21 **PROPERTY THAT IS DAMAGED AS A RESULT OF A DISASTER OR TERRORIST**
22 **ATTACK.**

23 **(N) “STATE OF EMERGENCY” INCLUDES:**

24 **(1) A STATE OF EMERGENCY DECLARED BY THE GOVERNOR**
25 **UNDER § 14-107 OF THIS TITLE;**

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

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

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

8 (5) A DECLARATION BY AN AGENCY OF THE UNITED STATES
9 GOVERNMENT, THE GOVERNOR, THE SECRETARY OF HEALTH AND MENTAL
10 HYGIENE, OR THE PRINCIPAL EXECUTIVE OFFICER OF A POLITICAL
11 SUBDIVISION THAT THERE IS A SHORTAGE OF OR INCREASED DEMAND FOR
12 ESSENTIAL GOODS OR SERVICES.

13 (O) “TRANSPORTATION, FREIGHT, AND STORAGE SERVICES” MEANS
14 SERVICES PERFORMED BY A PERSON UNDER A CONTRACT TO MOVE, STORE, OR
15 TRANSPORT PERSONAL OR BUSINESS PROPERTY OR RENT EQUIPMENT FOR
16 THOSE PURPOSES.

17 **14-1102.**

18 (A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,
19 DURING A STATE OF EMERGENCY, A PERSON MAY NOT SELL OR OFFER TO SELL
20 ESSENTIAL GOODS OR SERVICES NOT EXCLUDED BY EXECUTIVE ORDER OF THE
21 GOVERNOR, OTHER THAN SERVICES USED FOR EMERGENCY CLEANUP, FOR A
22 PRICE OF MORE THAN 10% ABOVE THE HIGHEST PRICE AT WHICH THE PERSON
23 MADE ACTUAL SALES OF THOSE ESSENTIAL GOODS OR SERVICES NOT MORE
24 THAN 60 DAYS OR LESS THAN 14 DAYS BEFORE THE STATE OF EMERGENCY.

25 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,
26 DURING A STATE OF EMERGENCY, AND FOR THE FOLLOWING 180 DAYS, A
27 PERSON MAY NOT SELL OR OFFER TO SELL REPAIR OR RECONSTRUCTION
28 SERVICES OR SERVICES USED FOR EMERGENCY CLEANUP FOR A PRICE OF MORE
29 THAN 10% ABOVE THE PRICE CHARGED BY THE PERSON FOR THOSE SERVICES
30 IMMEDIATELY BEFORE THE STATE OF EMERGENCY.

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

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

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

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

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

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

20 **14-1103.**

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

25 **14-1104.**

26 **THE REMEDIES PROVIDED IN THIS SUBTITLE ARE CUMULATIVE TO EACH**
27 **OTHER AND TO THE REMEDIES OR PENALTIES AVAILABLE UNDER ALL OTHER**
28 **LAWS.**

29 **14-1105.**

1 **THIS SUBTITLE DOES NOT PREEMPT ANY LOCAL ORDINANCE**
2 **PROHIBITING OR IMPOSING A MORE SEVERE PENALTY FOR THE SAME OR**
3 **SIMILAR CONDUCT AS PROHIBITED IN THIS SUBTITLE.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
5 measure, is necessary for the immediate preservation of the public health or safety,
6 has been passed by a yea and nay vote supported by three-fifths of all the members
7 elected to each of the two Houses of the General Assembly, and shall take effect from
8 the date it is enacted.