

# HOUSE BILL 1487

E4

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By: **Delegate Rosenberg**

Introduced and read first time: February 18, 2008

Assigned to: Rules and Executive Nominations

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## 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; requiring the Office of the Attorney General to  
8 provide a person an opportunity to present evidence that a price increase was  
9 not unlawful; providing that a certain sale or offer for sale is an unfair or  
10 deceptive trade practice; altering a certain definition; defining certain terms;  
11 and generally relating to the sale of goods or services during or following a state  
12 of emergency.

13 BY repealing and reenacting, without amendments,  
14 Article – Public Safety  
15 Section 14–101(a)  
16 Annotated Code of Maryland  
17 (2003 Volume and 2007 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article – Public Safety  
20 Section 14–101(c)  
21 Annotated Code of Maryland  
22 (2003 Volume and 2007 Supplement)

23 BY adding to  
24 Article – Public Safety  
25 Section 14–1101 through 14–1104 to be under the new subtitle “Subtitle 11.  
26 Essential Goods and Services”  
27 Annotated Code of Maryland  
28 (2003 Volume and 2007 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article - Public Safety**

4 14-101.

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

6 (c) "Emergency" means the threat or occurrence of:

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

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

13 (3) **FOR PURPOSES OF SUBTITLE 11 OF THIS TITLE, A CRITICAL**  
14 **SHORTAGE IN THE STATE OF ESSENTIAL GOODS OR SERVICES AS DEFINED IN §**  
15 **14-1101 OF THIS TITLE.**

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

17 **14-1101.**

18 (A) **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
19 **INDICATED.**

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

23 (C) **"CONSUMER GOODS" HAS THE MEANING STATED IN § 13-101 OF**  
24 **THE COMMERCIAL LAW ARTICLE.**

25 (D) **"CONSUMER SERVICES" HAS THE MEANING STATED IN § 13-101 OF**  
26 **THE COMMERCIAL LAW ARTICLE.**

27 (E) **"EMERGENCY SUPPLIES" INCLUDES WATER, FLASHLIGHTS, RADIOS,**  
28 **BATTERIES, CANDLES, BLANKETS, SOAP, DIAPERS, TEMPORARY SHELTERS,**  
29 **TAPE, TOILETRIES, PLYWOOD, NAILS, AND HAMMERS.**

1           **(F) “ESSENTIAL GOODS OR SERVICES” MEANS ANY OF THE FOLLOWING**  
2 **IF SPECIFIED BY CATEGORY OR BY INDIVIDUAL ITEMS IN AN EXECUTIVE ORDER**  
3 **OF THE GOVERNOR IN CONNECTION WITH A STATE OF EMERGENCY:**

4           **(1) FOOD ITEMS;**

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

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

7           **(4) EMERGENCY SUPPLIES;**

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

9           **(6) HOME HEATING OIL;**

10          **(7) BUILDING MATERIALS;**

11          **(8) HOUSING;**

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

13          **(10) GASOLINE; OR**

14           **(11) GOODS AND SERVICES NECESSARY TO PRESERVE THE**  
15 **HEALTH, SAFETY, OR WELFARE OF THE PUBLIC.**

16          **(G) “FOOD ITEM” MEANS ANY ARTICLE THAT IS USED OR INTENDED FOR**  
17 **USE FOR FOOD, DRINK, OR CONFECTION.**

18          **(H) “FUEL” MEANS GASOLINE, DIESEL, OR OTHER FUEL USED TO**  
19 **POWER A MOTOR VEHICLE OR POWER TOOL.**

20          **(I) “HOUSING” MEANS RENTAL HOUSING AND INCLUDES HOUSING**  
21 **PROVIDED BY A HOTEL OR MOTEL.**

22          **(J) “MEDICAL SUPPLIES OR EQUIPMENT” INCLUDES PRESCRIPTION**  
23 **AND NONPRESCRIPTION MEDICATIONS, VACCINES, BANDAGES, GAUZE,**  
24 **ISOPROPYL ALCOHOL, MEDICAL EQUIPMENT, ANTIVIRAL PRODUCTS, AND**  
25 **ANTIBACTERIAL PRODUCTS.**

26          **(K) “PRICE” MEANS RETAIL OR WHOLESALE PRICE.**

1           (L) **“REPAIR OR RECONSTRUCTION SERVICES” MEANS SERVICES**  
2 **PERFORMED BY A PERSON FOR REPAIRS TO RESIDENTIAL OR COMMERCIAL**  
3 **PROPERTY THAT IS DAMAGED AS A RESULT OF A DISASTER OR TERRORIST**  
4 **ATTACK.**

5           (M) **“REPLACEMENT COSTS” INCLUDES:**

6                 (1) **ACQUISITION COSTS;**

7                 (2) **COSTS THAT ARE A RESULT OF A CONTRACT IN WHICH THE**  
8 **CONSUMER GOODS OR SERVICES ARE PRICED ON A FORMULA THAT**  
9 **REFERENCES PUBLISHED MARKET PRICES; AND**

10                (3) **THE ACTUAL OR REASONABLY EXPECTED COST OF**  
11 **REPLACING A GOOD OR SERVICE BEING SOLD BASED ON INFORMATION**  
12 **AVAILABLE AT THE TIME OF THE INCREASE IN PRICE.**

13           (N) **“STATE OF EMERGENCY” MEANS A STATE OF EMERGENCY**  
14 **DECLARED BY THE GOVERNOR UNDER § 14-107 OF THIS TITLE.**

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

19 **14-1102.**

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

29           (B) **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,**  
30 **DURING A STATE OF EMERGENCY, AND FOR THE FOLLOWING 90 DAYS, A PERSON**  
31 **MAY NOT SELL OR OFFER TO SELL REPAIR OR RECONSTRUCTION SERVICES OR**  
32 **SERVICES USED FOR EMERGENCY CLEANUP FOR A PRICE OF MORE THAN 20%**  
33 **ABOVE THE PRICE CHARGED BY THE PERSON FOR THOSE SERVICES**  
34 **IMMEDIATELY BEFORE THE STATE OF EMERGENCY.**

1           **(C) A PERSON MAY CHARGE A PRICE INCREASE OF MORE THAN 20% IF**  
2 **THE 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,**  
5 **INCLUDING REPLACEMENT COSTS; OR**

6                   **(2) THE INCREASE IN PRICE WAS DIRECTLY ATTRIBUTABLE TO**  
7 **ADDITIONAL COSTS FOR LABOR OR MATERIALS USED TO PROVIDE THE**  
8 **SERVICES OR TO PRODUCE THE GOODS, INCLUDING COSTS, TO REPAIR ANY**  
9 **DAMAGE RELATING TO THE STATE OF EMERGENCY.**

10           **(D) AT LEAST 10 DAYS BEFORE AN ACTION IS FILED UNDER § 14-1103**  
11 **OF THIS SUBTITLE, THE OFFICE OF THE ATTORNEY GENERAL SHALL PROVIDE A**  
12 **PERSON WHOSE ACTIONS MAY BE IN VIOLATION OF THIS SECTION NOTICE OF**  
13 **THE GENERAL RELIEF SOUGHT BY THE OFFICE TO PROVIDE THE PERSON AN**  
14 **OPPORTUNITY TO PRESENT EVIDENCE THAT THE PRICE INCREASE WAS IN**  
15 **ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.**

16 **14-1103.**

17           **A SALE OR OFFER FOR SALE OF ESSENTIAL GOODS OR SERVICES THAT**  
18 **VIOLATES THIS SUBTITLE IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE**  
19 **UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE, EXCEPT THAT THE**  
20 **REMEDIES PROVIDED UNDER § 13-411 OF THE COMMERCIAL LAW ARTICLE**  
21 **MAY NOT APPLY TO A VIOLATION OF THIS SUBTITLE.**

22 **14-1104.**

23           **THE SECRETARY OF STATE SHALL ADOPT REGULATIONS TO ESTABLISH A**  
24 **SYSTEM BY WHICH A PERSON MAY REGISTER TO RECEIVE ELECTRONIC**  
25 **NOTIFICATION:**

26                   **(1) STATING THAT A STATE OF EMERGENCY HAS BEEN DECLARED**  
27 **AND AN EXECUTIVE ORDER HAS BEEN ISSUED;**

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

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

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2008.