

HOUSE BILL 332

E4, I3

3lr0699
CF SB 185

By: **Delegates Pena–Melnyk, Zucker, Barkley, Barnes, Braveboy, Cullison, Frush, Gaines, A. Kelly, Love, Luedtke, A. Miller, Rosenberg, and Summers**

Introduced and read first time: January 24, 2013
Assigned to: Health and Government Operations

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 and services for a certain price during a state of emergency; prohibiting a
5 person from selling or offering to sell certain services for a certain price during a
6 state of emergency and for a certain amount of time following a state of
7 emergency; creating certain exceptions; requiring the Office of the Attorney
8 General to provide a person an opportunity to present evidence that a price
9 increase was not unlawful; providing that a certain sale or offer for sale is an
10 unfair or deceptive trade practice; providing that certain remedies and penalties
11 do not apply to a certain sale or offer for sale of certain goods and services;
12 altering a certain definition; defining certain terms; and generally relating to
13 the sale of goods and services during or following a state of emergency.

14 BY repealing and reenacting, without amendments,
15 Article – Public Safety
16 Section 14–101(a)
17 Annotated Code of Maryland
18 (2011 Replacement Volume and 2012 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Public Safety
21 Section 14–101(c)
22 Annotated Code of Maryland
23 (2011 Replacement Volume and 2012 Supplement)

24 BY adding to
25 Article – Public Safety

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 14–1101 through 14–1104 to be under the new subtitle “Subtitle 11.
2 Essential Goods and Services”
3 Annotated Code of Maryland
4 (2011 Replacement Volume and 2012 Supplement)

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

7 **Article – Public Safety**

8 14–101.

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

10 (c) “Emergency” means the threat or occurrence of:

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

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

17 (3) **FOR PURPOSES OF SUBTITLE 11 OF THIS TITLE ONLY, A**
18 **CRITICAL SHORTAGE IN THE STATE OF ESSENTIAL GOODS AND SERVICES AS**
19 **DEFINED IN § 14–1101 OF THIS TITLE.**

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

21 **14–1101.**

22 (A) **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
23 **INDICATED.**

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

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

30 (D) **“ESSENTIAL GOODS AND SERVICES” MEANS ANY OF THE**
31 **FOLLOWING, IF SPECIFIED BY CATEGORY OR BY INDIVIDUAL ITEMS IN AN**

1 EXECUTIVE ORDER OF THE GOVERNOR IN CONNECTION WITH AND DIRECTLY
2 RELATED TO A STATE OF EMERGENCY:

3 (1) FOOD ITEMS;

4 (2) CONSUMER GOODS AND SERVICES;

5 (3) GOODS AND SERVICES USED FOR EMERGENCY CLEANUP;

6 (4) EMERGENCY SUPPLIES;

7 (5) MEDICAL SUPPLIES AND EQUIPMENT;

8 (6) HOME HEATING OIL;

9 (7) BUILDING MATERIALS;

10 (8) HOUSING;

11 (9) TRANSPORTATION, FREIGHT, AND STORAGE SERVICES; OR

12 (10) GASOLINE.

13 (E) "FOOD ITEM" MEANS ANY ARTICLE THAT IS USED OR INTENDED FOR
14 USE FOR FOOD OR DRINK.

15 (F) "FUEL" MEANS GASOLINE, DIESEL, OR OTHER FUEL USED TO
16 POWER A MOTOR VEHICLE OR POWER TOOL.

17 (G) (1) "HOUSING" MEANS RENTAL HOUSING.

18 (2) "HOUSING" INCLUDES HOUSING PROVIDED BY A HOTEL OR
19 MOTEL.

20 (H) "MEDICAL SUPPLIES OR EQUIPMENT" INCLUDES PRESCRIPTION
21 AND NONPRESCRIPTION MEDICATIONS, VACCINES, BANDAGES, GAUZE,
22 ISOPROPYL ALCOHOL, MEDICAL EQUIPMENT, ANTIVIRAL PRODUCTS, AND
23 ANTIBACTERIAL PRODUCTS.

24 (I) "PRICE" MEANS RETAIL OR WHOLESALE PRICE.

25 (J) "REPAIR OR RECONSTRUCTION SERVICES" MEANS SERVICES
26 PERFORMED BY A PERSON FOR REPAIRS TO RESIDENTIAL OR COMMERCIAL

1 PROPERTY THAT IS DAMAGED AS A RESULT OF A DISASTER OR TERRORIST
2 ATTACK.

3 (K) "REPLACEMENT COSTS" MEANS:

4 (1) ACQUISITION COSTS;

5 (2) COSTS THAT ARE A RESULT OF A CONTRACT IN WHICH THE
6 ESSENTIAL GOODS AND SERVICES ARE PRICED ACCORDING TO A FORMULA
7 THAT REFERENCES PUBLISHED MARKET PRICES; OR

8 (3) THE ACTUAL OR REASONABLY CONTEMPLATED COSTS OF
9 REPLACING AN ESSENTIAL GOOD OR SERVICE BEING SOLD, BASED ON
10 INFORMATION AVAILABLE AT THE TIME OF THE INCREASE IN PRICE.

11 (L) "STATE OF EMERGENCY" MEANS A STATE OF EMERGENCY
12 DECLARED BY THE GOVERNOR UNDER § 14-107 OF THIS TITLE.

13 (M) "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, IN THE GEOGRAPHIC AREA COVERED BY THE
20 DECLARATION OF THE STATE OF EMERGENCY, A PERSON MAY NOT SELL OR
21 OFFER TO SELL ESSENTIAL GOODS AND SERVICES SPECIFIED BY EXECUTIVE
22 ORDER OF THE GOVERNOR, OTHER THAN SERVICES USED FOR EMERGENCY
23 CLEANUP, FOR A PRICE OF MORE THAN 15% ABOVE THE HIGHEST PRICE AT
24 WHICH THE PERSON MADE ACTUAL SALES OR RENTALS OF THOSE ESSENTIAL
25 GOODS OR SERVICES NOT MORE THAN 60 DAYS OR LESS THAN 4 DAYS BEFORE
26 THE STATE OF EMERGENCY.

27 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,
28 DURING A STATE OF EMERGENCY, AND FOR THE FOLLOWING 90 DAYS, A PERSON
29 MAY NOT SELL OR OFFER TO SELL REPAIR OR RECONSTRUCTION SERVICES OR
30 SERVICES USED FOR EMERGENCY CLEANUP FOR A PRICE OF MORE THAN 15%
31 ABOVE THE PRICE CHARGED BY THE PERSON FOR THOSE SERVICES
32 IMMEDIATELY BEFORE THE STATE OF EMERGENCY.

1 **(C) A PERSON MAY CHARGE A PRICE INCREASE OF MORE THAN 15% IF**
2 **THE PERSON CAN PROVE THAT:**

3 **(1) THE PRICE INCREASE WAS DIRECTLY ATTRIBUTABLE TO**
4 **ADDITIONAL COSTS IMPOSED ON THE PERSON BY THE SUPPLIER OF THE GOODS,**
5 **INCLUDING REPLACEMENT COSTS, COSTS OF CREDIT, AND CREDIT CARD**
6 **PROCESSING COSTS; OR**

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

11 **(D) AT LEAST 20 DAYS BEFORE AN ACTION IS FILED UNDER § 14-1103**
12 **OF THIS SUBTITLE, THE OFFICE OF THE ATTORNEY GENERAL SHALL PROVIDE A**
13 **PERSON WHOSE ACTIONS MAY BE IN VIOLATION OF THIS SECTION NOTICE OF**
14 **THE GENERAL RELIEF SOUGHT BY THE OFFICE TO PROVIDE THE PERSON AN**
15 **OPPORTUNITY TO PRESENT EVIDENCE THAT THE PRICE INCREASE WAS IN**
16 **ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.**

17 **14-1103.**

18 **A SALE OR OFFER FOR SALE OF ESSENTIAL GOODS AND SERVICES THAT**
19 **VIOLATES THIS SUBTITLE IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE**
20 **UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE, EXCEPT THAT THE**
21 **REMEDIES AND PENALTIES PROVIDED UNDER §§ 13-408 AND 13-411 OF THE**
22 **COMMERCIAL LAW ARTICLE MAY NOT APPLY TO A VIOLATION OF THIS**
23 **SUBTITLE.**

24 **14-1104.**

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

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

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

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

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2013.