

SENATE BILL 565

E4

2lr1618
CF 2lr1532

By: **Senators Lam and Beidle**

Introduced and read first time: February 1, 2022

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Emergency Management – Price Gouging Consumer Protections**

3 FOR the purpose of prohibiting a person from selling an essential good or service for more
4 than a certain increase in price during, and for a certain time after, a certain state
5 of emergency; requiring the Secretary of State to establish an electronic notification
6 system by which a person may register to receive certain information; and generally
7 relating to emergency management and consumer protections.

8 BY adding to

9 Article – Public Safety

10 Section 14–1201 through 14–1204 to be under the new subtitle “Subtitle 12.
11 Essential Goods”

12 Annotated Code of Maryland

13 (2018 Replacement Volume and 2021 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

15 That the Laws of Maryland read as follows:

16 **Article – Public Safety**

17 **SUBTITLE 12. ESSENTIAL GOODS.**

18 **14–1201.**

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

21 (B) “PRICE” MEANS RETAIL OR WHOLESALE PRICE.

22 (C) “REPLACEMENT COSTS” MEANS:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(1) ACQUISITION COSTS;**

2 **(2) COSTS THAT ARE A RESULT OF A CONTRACT IN WHICH THE**
3 **FORMULA REFERENCES PUBLISHED MARKET PRICES; OR**

4 **(3) THE ACTUAL OR REASONABLE ANTICIPATED COSTS OF**
5 **REPLACING AN ESSENTIAL GOOD OR SERVICE OFFERED FOR SALE, BASED ON**
6 **INFORMATION AVAILABLE AT THE TIME OF THE INCREASE IN PRICE.**

7 **(D) "STATE OF EMERGENCY" MEANS A STATE OF EMERGENCY DECLARED BY**
8 **THE GOVERNOR UNDER § 14-107 OF THIS TITLE.**

9 **14-1202.**

10 **(A) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, DURING A**
11 **STATE OF EMERGENCY, IN THE GEOGRAPHIC AREA COVERED BY THE STATE OF**
12 **EMERGENCY DECLARATION, A PERSON MAY NOT SELL OR OFFER TO SELL ESSENTIAL**
13 **GOODS AND SERVICES FOR A PRICE OF 10% OR MORE ABOVE THE HIGHEST PRICE AT**
14 **WHICH THE PERSON MADE ACTUAL SALES OR RENTALS OF THOSE ESSENTIAL GOODS**
15 **OR SERVICES BETWEEN:**

16 **(1) 60 DAYS BEFORE THE STATE OF EMERGENCY DECLARATION; AND**

17 **(2) 4 DAYS BEFORE THE STATE OF EMERGENCY.**

18 **(B) ESSENTIAL GOODS AND SERVICES INCLUDE:**

19 **(1) FOOD;**

20 **(2) FUEL;**

21 **(3) WATER AND ICE;**

22 **(4) MEDICINE;**

23 **(5) MEDICAL SUPPLIES AND EQUIPMENT;**

24 **(6) HEALTH STAFFING SERVICES;**

25 **(7) CLEANING PRODUCTS;**

26 **(8) BUILDING SUPPLIES AND EQUIPMENT;**

1 **(9) ENERGY SOURCES;**

2 **(10) STORAGE SPACE;**

3 **(11) COMMUNICATION AND INTERNET SERVICES;**

4 **(12) ACCOMMODATIONS AND LODGING; AND**

5 **(13) ANY OTHER GOODS OR SERVICES DESIGNATED AS ESSENTIAL BY**
6 **THE GOVERNOR.**

7 **(C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, DURING A**
8 **STATE OF EMERGENCY, AND FOR THE 90 DAYS FOLLOWING THE END OF A STATE OF**
9 **EMERGENCY, A PERSON MAY NOT SELL OR OFFER TO SELL REPAIR OR**
10 **RECONSTRUCTION SERVICES USED FOR EMERGENCY CLEAN UP FOR A PRICE OF 10%**
11 **OR MORE THAN THE PRICE CHARGED BY THE PERSON FOR THOSE SERVICES**
12 **IMMEDIATELY BEFORE THE STATE OF EMERGENCY.**

13 **(D) A PERSON MAY CHARGE A PRICE INCREASE OF 10% OR MORE FOR**
14 **GOODS AND SERVICES IF THE PERSON CAN PROVE THAT:**

15 **(1) THE PRICE INCREASE IS DIRECTLY ATTRIBUTABLE TO**
16 **ADDITIONAL COSTS IMPOSED ON THE PERSON BY THE SUPPLIER OF THE GOODS,**
17 **INCLUDING REPLACEMENT COSTS, COSTS OF CREDIT, AND CREDIT CARD**
18 **PROCESSING COSTS; OR**

19 **(2) THE PRICE INCREASE IS DIRECTLY ATTRIBUTABLE TO**
20 **ADDITIONAL COSTS FOR LABOR OR MATERIALS USED TO PROVIDE THE SERVICE OR**
21 **PRODUCE THE GOODS, INCLUDING COSTS TO REPAIR ANY DAMAGE RELATING TO**
22 **THE STATE OF EMERGENCY.**

23 **(E) AT LEAST 20 DAYS BEFORE AN ACTION IS FILED UNDER § 14-1203 OF**
24 **THIS SUBTITLE, THE OFFICE OF THE ATTORNEY GENERAL SHALL PROVIDE A**
25 **PERSON WHOSE ACTIONS MAY BE IN VIOLATION OF THIS SECTION NOTICE OF THE**
26 **GENERAL RELIEF SOUGHT BY THE OFFICE TO PROVIDE THE PERSON AN**
27 **OPPORTUNITY TO PRESENT EVIDENCE THAT THE PRICE INCREASE WAS IN**
28 **ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.**

29 **14-1203.**

30 **(A) A SALE OR OFFER FOR SALE OF ESSENTIAL GOODS AND SERVICES IN**
31 **VIOLATION OF § 14-1202 OF THIS SUBTITLE IS:**

1 **(1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE, AS**
2 **DEFINED UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND**

3 **(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS OF**
4 **TITLE 13 OF THE COMMERCIAL LAW ARTICLE, EXCEPT FOR THE CRIMINAL**
5 **PENALTIES IN § 13-411 OF THE COMMERCIAL LAW ARTICLE.**

6 **(B) A PERSON WHO SUFFERS ANY INJURY OR LOSS AS A RESULT OF A**
7 **VIOLATION OF § 14-1202 OF THIS SUBTITLE MAY BRING AN ACTION UNDER § 13-408**
8 **OF THE COMMERCIAL LAW ARTICLE REGARDLESS OF WHETHER THE PERSON IS A**
9 **CONSUMER, AS DEFINED IN § 13-101 OF THE COMMERCIAL LAW ARTICLE.**

10 **14-1204.**

11 **THE SECRETARY OF STATE SHALL ADOPT REGULATIONS TO ESTABLISH A**
12 **SYSTEM BY WHICH A PERSON MAY REGISTER TO RECEIVE ELECTRONIC**
13 **NOTIFICATIONS STATING:**

14 **(1) THAT A STATE OF EMERGENCY HAS BEEN DECLARED AND AN**
15 **EXECUTIVE ORDER HAS BEEN ISSUED;**

16 **(2) THAT THE PROVISIONS OF THIS SUBTITLE ARE IN EFFECT; AND**

17 **(3) THE CATEGORIES OF ESSENTIAL GOODS AND SERVICES OR**
18 **INDIVIDUAL ESSENTIAL GOODS AND SERVICES THAT ARE COVERED BY THE**
19 **EXECUTIVE ORDER OF THE GOVERNOR.**

20 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June**
21 **1, 2022.**