

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

As Engrossed: S3/17/03 S3/21/03

# A Bill

SENATE BILL 762

5 By: Senators Steele, Brown, B. Johnson, Laverty, Salmon  
6 By: Representative Jones  
7

## For An Act To Be Entitled

10 THE ARKANSAS PRICE GOUGING ACT OF 2003.

### Subtitle

13 THE ARKANSAS PRICE GOUGING ACT OF 2003.  
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15

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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#### 18 SECTION 1. Intent.

19 The General Assembly finds and declares that:

20 (1) The threats of terrorist attacks and war are real and could  
21 impose horrific social and economic damage on Arkansas;

22 (2) The threat of terrorist attacks and war can dismantle the  
23 stability of markets and free trade;

24 (3) Pricing of consumer goods and services is generally best  
25 left to the marketplace under ordinary conditions, but when a terrorist  
26 attack, a threat of war, or an act of war results in abnormal disruptions of  
27 the market, the public interest requires that excessive and unjustified  
28 increases in the prices of consumer goods and services should be discouraged;

29 (4) Protecting the public from price gouging is a vital function  
30 of state government in providing for the health, safety, and welfare of  
31 consumers; and

32 (5)(A) The intent of the General Assembly is to protect  
33 citizens, during the time of instability and uncertainty that follows a  
34 terrorist attack, a threat of war, or during a time of war, from excessive  
35 and unjustified increases in the prices charged for goods and services that  
36 are vital or necessary for the consumer.



1                    (B) Further, it is the intent of the General Assembly that  
2 this act be liberally construed so that its beneficial purposes may be  
3 served.

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5            SECTION 2. Arkansas Code § 4-88-302 is amended to read as follow:

6            4-88-302. Definitions.

7            (a) "Building materials" means lumber, construction tools, windows,  
8 and anything else used in the building or rebuilding of property.

9            (b) "Consumer food item" means any article that is used or intended  
10 for use for food, drink, confection, or condiment by a person or animal.

11           (c) "Emergency supplies" includes, but is not limited to, water,  
12 flashlights, radios, batteries, candles, blankets, soap, diapers, temporary  
13 shelters, tape, toiletries, plywood, nails, and hammers.

14           (d) "Gasoline" means any fuel used to power any motor vehicle or power  
15 tool.

16           (e) "Goods" has the same meaning as defined in § 4-88-102(3).

17           (f) "Housing" means any rental housing ~~leased on a month-to-month term~~  
18 and includes any housing provided by a hotel or motel.

19           (g) "Local emergency" means a natural or man-made disaster or  
20 emergency resulting from a tornado, earthquake, flood, fire, riot, or storm  
21 for which a local emergency has been declared by the executive officer or  
22 governing body of any city or county in Arkansas.

23           (h) "Medical supplies" includes, but is not limited to, prescription  
24 and nonprescription medications, bandages, gauze, isopropyl alcohol, and  
25 antibacterial products.

26           (i) "Repair or reconstruction services" means services performed by  
27 any person for repairs to residential or commercial property of any type that  
28 is damaged as a result of a disaster.

29           (j)(1) "State of emergency" means a natural or man-made disaster or  
30 emergency resulting from a tornado, earthquake, flood, fire, riot, or storm  
31 for which a state of emergency has been declared by the President of the  
32 United States or the Governor.

33           (2) "State of emergency" also includes the declaration of a red  
34 condition in the Homeland Security Advisory System by either the U.S.  
35 Department of Homeland Security or the Arkansas Department of Emergency  
36 Management Services.

1        (k) "Transportation, freight, and storage services" means any service  
2 that is performed by any company that contracts to move, store, or transport  
3 personal or business property or rents equipment for those purposes.

4        (l) "Person" means a natural person, individual, partnership,  
5 corporation, trust, estate, incorporated or unincorporated association, and  
6 any other legal or commercial entity however organized.

7        (m) "Repair or reconstruction services" means services performed by  
8 any person for repairs to residential or commercial property of any type that  
9 is damaged as a result of a disaster or terrorist attack.

10       (n) "Services" means any work, labor, or services including services  
11 furnished in connection with the sale or repair of goods or real property or  
12 improvements thereto.

13       (o) "Transportation, freight, and storage services" means any service  
14 that is performed any person that contracts to move, store, or transport  
15 personal or business property or rents equipment for those purposes.

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17        SECTION 3. Arkansas code 4-88-303(a)(1), concerning prohibited unfair  
18 pricing practices, is amended to read as follows:

19        (a)(1) Upon the proclamation of a state of emergency resulting from a  
20 tornado, earthquake, flood, fire, riot, storm, or natural or man-made  
21 disaster declared by the President of the United States or the Governor, and  
22 upon the declaration of a local emergency resulting from a tornado,  
23 earthquake, flood, fire, riot, storm, or natural or man-made disaster by the  
24 executive officer of any city or county and for a period of thirty (30) days  
25 following that declaration, or during any period of time during which a red  
26 condition under the Homeland Security Advisory System has been declared by  
27 either the U.S. Department of Homeland Security or the Arkansas Department of  
28 Emergency Services, it is unlawful for any person, contractor, business, or  
29 other entity to sell or offer to sell any consumer food items or goods, goods  
30 or services used for emergency cleanup, emergency supplies, medical supplies,  
31 home heating oil, building materials, housing, transportation, freight, and  
32 storage services, or gasoline or other motor fuels for a price of more than  
33 ten percent (10%) above the price charged by that person for those goods or  
34 services immediately prior to the proclamation of emergency.

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36        SECTION 4. EMERGENCY CLAUSE. It is found and determined by the

1 General Assembly of the State of Arkansas that present law pertaining to  
2 price gouging does not adequately address the circumstances of terrorists  
3 attacks and war; that this act enhances the price gouging laws of this state  
4 to cover those situations; and that the imminent prospect of war and further  
5 terrorists attacks dictate that this act should go into effect as soon as  
6 possible. Therefore, an emergency is declared to exist and this act being  
7 immediately necessary for the preservation of the public peace, health, and  
8 safety shall become effective on:

9 (1) The date of its approval by the Governor;

10 (2) If the bill is neither approved nor vetoed by the Governor,  
11 the expiration of the period of time during which the Governor may veto the  
12 bill; or

13 (3) If the bill is vetoed by the Governor and the veto is  
14 overridden, the date the last house overrides the veto.

15 /s/ Steele  
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