

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*  
**A Bill**

SENATE BILL 762

5 By: Senators Steele, Brown, B. Johnson, Laverty, Salmon  
6 By: Representative Jones  
7  
8

9 **For An Act To Be Entitled**

10 THE ARKANSAS PRICE GOUGING ACT OF 2003.  
11

12 **Subtitle**

13 THE ARKANSAS PRICE GOUGING ACT OF 2003.  
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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) Because of the September 11, 2001, terrorist attacks that  
30 took place in New York and Virginia, the resulting war on terrorism, and the  
31 threat of a war with Iraq, some businesses across Arkansas have engaged in  
32 the economic practice commonly known as price gouging;

33 (5) Protecting the public from price gouging is a vital function  
34 of state government in providing for the health, safety, and welfare of  
35 consumers; and

36 (6)(A) The intent of the General Assembly is to protect



1 citizens, during the time of instability and uncertainty that follows a  
2 terrorist attack, a threat of war, or during a time of war, from excessive  
3 and unjustified increases in the prices charged for goods and services that  
4 are vital or necessary for the consumer.

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

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8 SECTION 2. Definitions.

9 As used in this act:

10 (1) "Building materials" means lumber, construction tools,  
11 windows, and anything else used in the building or rebuilding of property;

12 (2) "Consumer food item" means any article that is used or  
13 intended for use for food, drink, confection, or condiment by a person or  
14 animal;

15 (3) "Emergency supplies" includes, but is not limited to, water,  
16 flashlights, radios, batteries, candles, blankets, soap, diapers, temporary  
17 shelters, tape, toiletries, plywood, nails, and hammers;

18 (4) "Gasoline" means any fuel used to power any motor vehicle or  
19 power tool;

20 (5) "Goods" means any tangible chattels leased, bought, or  
21 otherwise obtained for use by an individual primarily for personal, family,  
22 or household purposes or a franchise, distributorship agreement, or similar  
23 business opportunity;

24 (6) "Housing" means any rental housing leased on a month-to-  
25 month term;

26 (7) "Medical supplies" includes, but is not limited to,  
27 prescription and nonprescription medications, bandages, gauze, isopropyl  
28 alcohol, and antibacterial products;

29 (8) "Person" means a natural person, individual, governmental  
30 agency, partnership, corporation, trust, estate, incorporated or  
31 unincorporated association, and any other legal or commercial entity however  
32 organized;

33 (9) "Repair or reconstruction services" means services performed  
34 by any person for repairs to residential or commercial property of any type  
35 that is damaged as a result of a disaster or terrorist attack;

36 (10) "Services" means any work, labor, or services including

1 services furnished in connection with the sale or repair of goods or real  
2 property or improvements thereto;

3 (11) "State of emergency" means a time of uncertainty or  
4 instability following a man made disaster or emergency resulting from a  
5 terrorist attack, a threat of war, or an act of war; and

6 (12) "Transportation, freight, and storage services" means any  
7 service that is performed by any company that contracts to move, store, or  
8 transport personal or business property or rents equipment for those  
9 purposes.

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11 SECTION 3. Prohibited acts during state of emergency.

12 (a) During a state of emergency following a terrorist attack, a threat  
13 of war, or an act of war, and continuing until a state of calm and normalcy  
14 has returned, it is unlawful, in any county or municipality covered by the  
15 state of emergency, for any person to charge any other person for any  
16 consumer food item, repair or construction services, emergency supplies,  
17 medical supplies, building materials, gasoline, transportation, freight,  
18 storage services, or housing, a price that represents more than ten percent  
19 (10%) above the total of the cost to the seller plus the markup customarily  
20 applied by the seller for that good or service in the usual course of  
21 business immediately prior to the onset of the state of emergency.

22 (b) A price in excess of that which is allowed under subsection (a) of  
23 this section shall not be unlawful if the person charging the higher price  
24 establishes by prima facie evidence that the increase was directly  
25 attributable to additional costs imposed on it by the supplier of the goods  
26 or services, or was directly attributable to additional costs for labor or  
27 materials used to provide the goods or services.

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29 SECTION 3. Penalties.

30 (a)(1) When a person violates this act, the violation shall constitute  
31 a deceptive or unconscionable trade practice.

32 (2) All remedies, penalties, and authority granted to the  
33 Consumer Protection Division of the Office of the Attorney General under § 4-  
34 88-105 shall be available for the enforcement of this act.

35 (b) In addition to any civil penalties, any person who is found to  
36 have violated this act shall be guilty of a Class A misdemeanor for each

1 violation.

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

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

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

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

18   /s/ Steele