

By the Committee on Regulated Industries and Senator Carlton

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A bill to be entitled
An act relating to consumer price gouging in
emergencies; amending s. 501.160, F.S.; adding
building materials and public lodging to the
definition of commodity; providing for
enforcement by the Department of Business and
Professional Regulation; providing an effective
date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 501.160, Florida Statutes, is
amended to read:

501.160 Rental or sale of essential commodities during
a declared state of emergency; prohibition against
unconscionable prices.--

(1) As used in this section:

(a) "Commodity" means any goods, services, materials,
merchandise, supplies, equipment, resources, or other article
of commerce, and includes, without limitation, food, water,
ice, chemicals, petroleum products, building materials, and
public lodging ~~and lumber~~ necessary for consumption or use as
a direct result of the emergency.

(b) It is prima facie evidence that a price is
unconscionable if:

1. The amount charged represents a gross disparity
between the price of the commodity or rental or lease of any
dwelling unit or self-storage facility that is the subject of
the offer or transaction and the average price at which that
commodity or dwelling unit or self-storage facility was
rented, leased, sold, or offered for rent or sale in the usual

1 course of business during the 30 days immediately prior to a
2 declaration of a state of emergency or ordered evacuation, and
3 the increase in the amount charged is not attributable to
4 additional costs incurred in connection with the rental or
5 sale of the commodity or rental or lease of any dwelling unit
6 or self-storage facility, or national or international market
7 trends; or

8 2. The amount charged grossly exceeds the average
9 price at which the same or similar commodity was readily
10 obtainable in the trade area during the 30 days immediately
11 prior to a declaration of a state of emergency or ordered
12 evacuation, and the increase in the amount charged is not
13 attributable to additional costs incurred in connection with
14 the rental or sale of the commodity or rental or lease of any
15 dwelling unit or self-storage facility, or national or
16 international market trends.

17 (2) Upon a declaration of a state of emergency by the
18 Governor or ordered evacuation, it is unlawful and a violation
19 of s. 501.204 for a person or her or his agent or employee to
20 rent or sell or offer to rent or sell at an unconscionable
21 price within the area for which the state of emergency is
22 declared, any essential commodity including, but not limited
23 to, supplies, services, provisions, or equipment that is
24 necessary for consumption or use as a direct result of the
25 emergency. This prohibition remains in effect until the
26 declaration expires or is terminated.

27 (3) It is unlawful and a violation of s. 501.204 for
28 any person to impose unconscionable prices for the rental or
29 lease of any dwelling unit or self-storage facility during a
30 period of declared state of emergency.

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1 (4) A price increase approved by an appropriate
2 government agency shall not be a violation of this section.
3 This exemption does not apply to room rates posted in
4 accordance with s. 509.201.

5 (5) This section shall not apply to sales by growers,
6 producers, or processors of raw or processed food products,
7 except for retail sales of such products to the ultimate
8 consumer within the area of the declared state of emergency.

9 (6) Nothing herein shall be interpreted to preempt the
10 powers of local government except that the evidentiary
11 standards and defenses contained in this section shall be the
12 only evidentiary standards and defenses used in any ordinance
13 adopted by local government to restrict price gouging during a
14 declared state of emergency.

15 (7) The Department of Business and Professional
16 Regulation may enforce this section as it applies to any
17 business or profession within its jurisdiction.

18 (8)~~(7)~~ Section 501.211 notwithstanding, nothing in
19 this section creates a private cause of action in favor of any
20 person damaged by a violation of this section.

21 Section 2. This act shall take effect July 1, 2000.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1930

The Committee Substitute for Senate Bill 1930:

- Clarifies that the definition of "commodity" in s. 501.160, F.S., includes public lodging and building materials;
- Deletes provisions that would have amended chapter 509, F.S., to regulate rates charged by public lodging establishments during a declared emergency, and to prohibit minimum stay requirements;
- Provides for enforcement by the Department of Business and Professional Regulation of the provisions in s. 501.160, F.S., that apply to any business or profession within its jurisdiction.