

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 347 Price Gouging During a Declared State of Emergency
SPONSOR(S): Waters and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 572

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture Committee		Reese	Reese
2) Criminal Justice Committee			
3) Justice Appropriations Committee			
4) State Resources Council			
5) _____			

SUMMARY ANALYSIS

HB 347 makes it a second-degree misdemeanor to charge unconscionable prices for essential commodities during a declared state of emergency. The bill also provides definitions for the terms: essential equipment, commodities, or accommodations; price gouging; and unconscionable price and makes a statement of legislative findings and intent.

The bill appears to have no fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility – The bill, with its enhanced penalties for price gouging, increases personal accountability for unlawful, injurious behavior.

B. EFFECT OF PROPOSED CHANGES:

Present situation: Existing law in s. 501.160, F.S., requires that the cost of commodities such as lodging, food, water, and petroleum must remain at the price that was average during the 30 days immediately preceding a declared state of emergency. Otherwise, violators of the statute are subject to civil penalties of \$1,000 per violation up to a total of \$25,000 for multiple violations committed in a single 24 hour period. Florida's Deceptive and Unfair Trade Practices Act, ss. 501.201 – 501.213, F.S., provides for civil penalties of \$10,000 per violation or \$15,000 for violations that victimize a senior citizen or handicapped person.

During 2004, the Florida Attorney General's Economic Crimes Division handled over 8,700 complaints as a result of the four hurricanes that struck the state. Thirteen lawsuits were filed in Florida courts alleging price gouging and Unfair and Deceptive Trade Practice violations. Of those thirteen, seven were against hotels, two against tree trimming services, three against generator sales, and one against a carpet cleaning and restoration service. Two of the thirteen cases have settled.

The Florida Department of Agriculture and Consumer Services' Division of Consumer Services, Division of Standards and Office of Agricultural Law Enforcement received and investigated many potential price gouging complaints following the 2004 hurricanes. The Division of Consumer Services received approximately 6,535 calls to its hotline and 3,034 complaints were investigated. The Division of Standards received 900 complaints and took enforcement action against 66 retail gasoline outlets and 21 terminals. The Office of Agricultural Law Enforcement has investigated 260 complaints and taken six actions.

Effect of proposed changes: The bill provides legislative findings and states that it is the intent of the Legislature to protect consumers from excessive and unjustified increases in the prices charged for certain defined essential items during a declared state of emergency.

The bill declares it a second-degree misdemeanor for a person to sell or rent, or offer to sell or rent, "essential equipment, commodities, or accommodation," during a declared state of emergency, for a price that is 110 percent or more of the average price for the particular item during the 30 days preceding a declared state of emergency. If a person illegally receives \$300 or more as a result of price gouging, the person commits a misdemeanor of the first degree, punishable by imprisonment of up to one year or a fine of up to \$1,000, or both.

C. SECTION DIRECTORY:

Section 1. Creates s. 501.161, F.S., providing legislative findings and intent; providing definitions; prohibiting price gouging during a declared state of emergency; providing penalties; providing an effective date.

Section 2. Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill appears to have no impact on state government revenues.

2. Expenditures:

The bill appears to have no impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill appears to have no impact on local government revenues.

2. Expenditures:

The bill appears to have no impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

From settlement of lawsuits and the informal resolution of complaints, the Attorney General's Economic Crimes Division has recovered \$241,634.75. Of that amount, \$124,415.75 is restitution to Florida Consumers.

D. FISCAL COMMENTS:

Approximately \$110,000 in fines has been received by the Department of Agriculture and Consumer Services as a result of enforcement actions taken by its Division of Standards.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

B. RULE-MAKING AUTHORITY:

The bill contains no grant of rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES