

By Senator Garcia

40-473A-05

1                                   A bill to be entitled  
2            An act relating to consumer protection;  
3            creating s. 501.161, F.S.; prohibiting the sale  
4            or rental of, or the offer to sell or rent,  
5            essential equipment, commodities, or  
6            accommodation, as defined, during a declared  
7            state of emergency for 110 percent or more of  
8            its average price for the 30 days immediately  
9            preceding the declaration of emergency;  
10           providing an exception; providing penalties;  
11           providing an effective date.  
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13           WHEREAS, the Legislature recognizes that during and  
14           immediately following emergencies and major disasters  
15           affecting the health, safety, and welfare of persons within  
16           the state, some individuals and merchants have taken unfair  
17           advantage of consumers by greatly increasing prices for  
18           essential consumer goods and services, and  
19           WHEREAS, the Legislature further recognizes that  
20           pricing of consumer goods and services is generally best left  
21           to the marketplace under ordinary conditions, but that, during  
22           a state of emergency declared by the Governor, persons who  
23           practice price gouging must be discouraged, and  
24           WHEREAS, it is the intent of the Legislature to protect  
25           consumers from excessive and unjustified increases in prices  
26           charged during a declared state of emergency for goods and  
27           services that are vital or necessary for the consumer and to  
28           punish any person who is found guilty of perpetrating such  
29           practices upon consumers within the state, NOW, THEREFORE,  
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31   Be It Enacted by the Legislature of the State of Florida:

1           Section 1. Section 501.161, Florida Statutes, is  
2 created to read:

3           501.161 Price gouging during state of emergency;  
4 penalties.--

5           (1) As used in this section, the term:

6           (a) "Essential equipment, commodities, or  
7 accommodation" means any goods, services, materials,  
8 merchandise, supplies, equipment, resources, or other article  
9 of commerce and includes, without limitation, food, water,  
10 ice, chemicals, petroleum products, and lumber necessary for  
11 consumption or use as a direct result of an emergency. The  
12 term also includes any temporary accommodation, such as a  
13 hotel, motel, other transient lodging facility, or other  
14 residential accommodation, sought by persons seeking shelter  
15 during the emergency.

16           (b) "Price gouging" means knowingly renting or  
17 selling, or attempting or offering to rent or sell, essential  
18 equipment, commodities, or accommodation during a state of  
19 emergency declared by the Governor for an unconscionable price  
20 that is 110 percent or more of the average price charged for  
21 such essential equipment, commodities, or accommodation for  
22 the 30 days immediately preceding the declaration of a state  
23 of emergency, unless the increase is caused by actual costs  
24 incurred in connection with such essential equipment,  
25 commodities, or accommodation.

26           (2) It is unlawful for any person to engage in price  
27 gouging in this state.

28           (a) Price gouging constitutes a misdemeanor of the  
29 second degree, punishable as provided in s. 775.082 or s.  
30 775.083, if the offender receives less than \$300, or receives  
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1 no consideration of any kind, for the essential equipment,  
2 commodities, or accommodation.

3 (b) Price gouging constitutes a misdemeanor of the  
4 first degree, punishable as provided in s. 775.082 or s.  
5 775.083, if the offender receives \$300 or more for the  
6 essential equipment, commodities, or accommodation.

7 Section 2. This act shall take effect July 1, 2005.

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10 SENATE SUMMARY

11 Declares it a second-degree misdemeanor for a person to  
12 sell or rent, or offer to sell or rent, "essential  
13 equipment, commodities, or accommodation," as defined,  
14 during a declared state of emergency for a price that is  
15 110 percent or more of the average price for that  
16 equipment, commodity, or accommodation during the 30 days  
17 preceding the declaration of emergency, an offense  
18 entitled "price gouging." When such person receives \$300  
19 or more as a result, the offense becomes a first-degree  
20 misdemeanor.  
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