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LEGISLATIVE ACTION

Senate

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House

Senator Gibson moved the following:

Senate Amendment (with title amendment)

Between lines 128 and 129

insert:

Section 2. Section 501.160, Florida Statutes, is amended to read:

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

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

(a) "Commodity" means any goods, services, materials,



398978

12 merchandise, supplies, equipment, resources, or other article of
13 commerce, and includes, without limitation, food, water, ice,
14 chemicals, petroleum products, and lumber necessary for
15 consumption or use as a direct result of the emergency or public
16 health emergency.

17 (b) "Public health emergency" has the same meaning as in s.
18 381.00315.

19 (2) ~~(b)~~ It is prima facie evidence that a price is
20 unconscionable if:

21 (a) ~~1-~~ The amount charged represents a gross disparity
22 between the price of the commodity or rental or lease of any
23 dwelling unit or self-storage facility that is the subject of
24 the offer or transaction and the average price at which that
25 commodity or dwelling unit or self-storage facility was rented,
26 leased, sold, or offered for rent or sale in the usual course of
27 business during the 30 days immediately prior to a declaration
28 of a state of emergency or a declaration of a public health
29 emergency, unless the increase in the amount charged is
30 attributable to additional costs incurred in connection with the
31 rental or sale of the commodity or rental or lease of any
32 dwelling unit or self-storage facility, or regional, national,
33 or international market trends; or

34 (b) ~~2-~~ The amount charged grossly exceeds the average price
35 at which the same or similar commodity was readily obtainable in
36 the trade area during the 30 days immediately prior to a
37 declaration of a state of emergency or a declaration of a public
38 health emergency, unless the increase in the amount charged is
39 attributable to additional costs incurred in connection with the
40 rental or sale of the commodity or rental or lease of any



398978

41 dwelling unit or self-storage facility, or regional, national,
42 or international market trends.

43 (3)~~(2)~~ Upon a declaration of a state of emergency by the
44 Governor or upon a declaration of a public health emergency
45 pursuant to s. 381.00315, it is unlawful and a violation of s.
46 501.204 for a person or her or his agent or employee to rent or
47 sell or offer to rent or sell at an unconscionable price within
48 the area for which the state of emergency or public health
49 emergency is declared, any essential commodity including, but
50 not limited to, supplies, services, provisions, or equipment
51 that is necessary for consumption or use as a direct result of
52 the emergency or the public health emergency. This prohibition
53 is effective not to exceed 60 days under the initial declared
54 state of emergency as defined in s. 252.36(2) or the initial
55 declared state of public health emergency pursuant to s.
56 381.00315 and shall be renewed by statement in any subsequent
57 renewals of the declared state of emergency by the Governor or
58 the declared state of public health emergency.

59 (4)~~(3)~~ It is unlawful and a violation of s. 501.204 for any
60 person to impose unconscionable prices for the rental or lease
61 of any dwelling unit or self-storage facility during a period of
62 declared state of emergency or public health emergency.

63 (5)~~(4)~~ A price increase approved by an appropriate
64 government agency shall not be a violation of this section.

65 (6)~~(5)~~ This section shall not apply to sales by growers,
66 producers, or processors of raw or processed food products,
67 except for retail sales of such products to the ultimate
68 consumer within the area of the declared state of emergency or
69 public health emergency.



398978

70 ~~(7)~~~~(6)~~ Nothing herein shall be interpreted to preempt the
71 powers of local government except that the evidentiary standards
72 and defenses contained in this section shall be the only
73 evidentiary standards and defenses used in any ordinance adopted
74 by local government to restrict price gouging during a declared
75 state of emergency or public health emergency.

76 ~~(8)~~~~(7)~~ Section 501.211 notwithstanding, nothing in this
77 section creates a private cause of action in favor of any person
78 damaged by a violation of this section.

79 ~~(9)~~~~(8)~~ Any violation of this section may be enforced by the
80 office of the state attorney or the Department of Legal Affairs.

81 ~~(10)~~~~(9)~~ Upon a declaration of a state of emergency by the
82 Governor or upon a declaration of a public health emergency
83 pursuant to s. 381.00315, in order to protect the health,
84 safety, and welfare of residents, any person who offers goods
85 and services for sale to the public during the duration of the
86 emergency or the public health emergency and who does not
87 possess a business tax receipt under s. 205.032 or s. 205.042
88 commits a misdemeanor of the second degree, punishable as
89 provided in s. 775.082 or s. 775.083. During a declared
90 emergency or public health emergency, this subsection does not
91 apply to religious, charitable, fraternal, civic, educational,
92 or social organizations. During a declared emergency or public
93 health emergency and when there is an allegation of price
94 gouging against the person, failure to possess a license
95 constitutes reasonable cause to detain the person, provided that
96 the detention shall only be made in a reasonable manner and only
97 for a reasonable period of time sufficient for an inquiry into
98 the circumstances surrounding the failure to possess a license.



398978

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100 ===== T I T L E A M E N D M E N T =====

101 And the title is amended as follows:

102 Delete line 6

103 and insert:

104 removal of a security freeze; amending s. 501.160,
105 F.S.; revising the definition of the term "commodity";
106 defining the term "public health emergency"; providing
107 that prohibitions against the unconscionable pricing
108 of essential commodities during a declared state of
109 emergency also apply during a declared public health
110 emergency; providing applicability of a criminal
111 penalty for failure to possess a business tax receipt
112 during a declared public health emergency; amending s.
113 624.307,