
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-4552.1/02

ATTY/TYPIST: RJS:mos

BRIEF DESCRIPTION:

2 **ESHB 2419** - S COMM AMD

3 By Committee on Labor, Commerce & Financial Institutions

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5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 19.86 RCW
8 to read as follows:

9 The legislature finds that consumers are vulnerable to price
10 gouging or clearly excessive pricing during times of abnormal market
11 conditions caused by significant disruptions, emergencies, or
12 disasters. The legislature declares that excessive and unjustified
13 increases in retail prices charged during abnormal market conditions as
14 defined in section 2 of this act should be prohibited and made subject
15 to civil remedies.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 19.86 RCW
17 to read as follows:

18 The definitions in this section apply throughout sections 1 through
19 4 of this act unless the context clearly requires otherwise.

20 (1) "Abnormal market conditions" means those instances of
21 significant disruption to the marketplace caused by terrorist acts,
22 civil disorder, war, or military action; extreme weather conditions; or
23 convulsion of nature, including earthquake, tornado, tsunami, volcanic
24 activity, fire, flood, or storm; and any emergency or disaster as set
25 forth in chapters 43.06 and 38.52 RCW.

26 (2) "Person" has the same meaning as provided under RCW 19.86.010.

27 (3) "Essential consumer good or service" means a retail good or
28 service that is used, bought, or rendered primarily for personal,
29 family, or household purposes, and is necessary for consumption or use
30 during a period of abnormal market condition, including food items;
31 emergency supplies; medical supplies; building materials; fuel;
32 transportation services; storage services; and temporary housing.

33 (4) "Food item" means any article that is used or intended for use
34 for food or drink by a person or animal.

1 (5) "Emergency supplies" includes but is not limited to water,
2 flashlights, fire extinguishers, radios, batteries, candles, blankets,
3 soaps, diapers, temporary shelters, tape, toiletries, and portable
4 fossil-fueled electric generators.

5 (6) "Medical supplies" includes but is not limited to prescription
6 and nonprescription medications, bandages, gauze, isopropyl alcohol,
7 and antibacterial products.

8 (7) "Building materials" includes lumber, construction tools,
9 nails, windows, and other products used to protect, repair, build, or
10 rebuild property.

11 (8) "Fuel" includes oil or propane used for home heating, or any
12 fuel used to power any motor vehicle, portable electric generator, or
13 power tool.

14 (9) "Transportation services" includes any service that is
15 performed by any person who contracts to move or transport persons or
16 personal or business property, or rents equipment for such purposes.

17 (10) "Storage services" includes any service that is performed by
18 any person who contracts to store personal or business property or
19 rents equipment for such purposes.

20 (11) "Temporary housing" includes any rental housing or office
21 space leased on a temporary or short-term basis to a person who has
22 been displaced from his or her dwelling, housing, or office space
23 because of a significant disruption, emergency, or disaster.

24 (12) "Emergency cleanup, repair, or reconstruction services" means
25 services provided and equipment used to clear or remove debris or other
26 material that poses a public safety or health hazard and to repair
27 residential or commercial property of any type to a safe and habitable
28 condition.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.86 RCW
30 to read as follows:

31 (1) In addition to the powers in chapters 43.06 and 38.52 RCW for
32 the governor to make disaster or emergency proclamations, for purposes
33 of triggering the provisions in sections 1 through 4 of this act, the
34 governor is also hereby empowered to make and to rescind a proclamation
35 of an abnormal market condition as defined in section 2 of this act.

36 (2) Upon the proclamation by the governor under chapters 43.06 and
37 38.52 RCW or sections 1 through 4 of this act of an abnormal market
38 condition, and for a period of thirty days following the proclamation,

1 or a lesser time period if the proclamation is rescinded, it is
2 unlawful for any person to sell or offer to sell at retail any
3 essential consumer good or service within the area designated in the
4 proclamation at a clearly excessive increase in price above the price
5 charged by that person for such goods or services immediately prior to
6 the proclamation as specified in section 4 of this act.

7 (3) Upon the proclamation by the governor under sections 1 through
8 4 of this act of an abnormal market condition, and for a period of
9 ninety days following the proclamation, or a lesser time period if the
10 proclamation is rescinded, it is unlawful for any person to sell or
11 offer to sell at retail any emergency cleanup, repair, or
12 reconstruction service within the area designated in the proclamation
13 at a clearly excessive increase in price above the price charged by
14 that person for such goods or services immediately prior to the
15 proclamation as defined in section 4 of this act.

16 (4) An increase in price is not unlawful if the higher price
17 charged reflected reasonable expenses in addition to the prior price of
18 the goods or services but such reasonable expenses are limited to those
19 which are necessarily incurred in procuring or delivering such goods
20 and services during the period of time set forth in subsections (2) and
21 (3) of this section. A price increase in excess of fifteen percent not
22 tied to the reasonable expenses necessarily incurred in procuring or
23 delivering an essential consumer good or service during the period of
24 time set forth in subsections (2) and (3) of this section is prima
25 facie evidence of a clearly excessive price increase. In actions
26 involving fuel, reasonable expenses shall also include increases in
27 price commensurate with supply disruptions or reductions experienced by
28 the retailer when such increases in retail price are designed to reduce
29 demand by consumers.

30 (5) Any person who sold or had offered to sell an essential
31 consumer good or service, or emergency cleanup, repair, or
32 reconstruction service at a temporarily discounted or reduced price
33 immediately prior to the proclamation as set forth in this section may
34 use the price at which the person normally or usually sold the good or
35 service for purposes of determining whether a price increase violates
36 sections 1 through 4 of this act.

37 (6) The governor may extend the time periods set forth in
38 subsections (2) and (3) of this section for additional thirty-day
39 periods by issuing a renewed proclamation, upon a finding that the

1 abnormal market condition continues and that any such extension is
2 deemed necessary to protect the health, safety, or welfare of the
3 citizens of the state.

4 (7) The governor may rescind an emergency proclamation made in
5 accordance with subsection (1) of this section upon a finding that no
6 abnormal market conditions exist.

7 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.86 RCW
8 to read as follows:

9 (1) The legislature finds that the practices covered by sections 1
10 through 4 of this act are matters vitally affecting the public
11 interest. A violation of sections 1 through 4 of this act is not
12 reasonable in relation to the development and preservation of business
13 and is an unfair or deceptive practice in trade or commerce and an
14 unfair method of competition.

15 (2) The provisions of sections 1 through 4 of this act do not apply
16 to persons whose activities or transactions as to prices for goods or
17 services are subject to regulation by the Washington utilities and
18 transportation commission or the federal energy regulatory commission.

19 (3) Persons who merely provide advertising and related services for
20 persons engaged in making offers to sell goods or perform services
21 shall not be deemed to be making any offer to sell any goods or perform
22 any services for purposes of sections 1 through 4 of this act.

23 (4) In any action against a person under the provisions of sections
24 1 through 4 of this act, the defendant shall be deemed not to have
25 violated sections 1 through 4 of this act if the defendant proves all
26 of the following:

27 (a) The violation of the price limitation was unintentional;

28 (b) The defendant voluntarily rolled back prices to a level
29 permitted under sections 1 through 4 of this act upon discovering that
30 this section was or may have been violated; and

31 (c) The defendant has instituted a restitution program for all
32 consumers who may have paid excessive prices.

33 (5) Subsequent remedial measures are not admissible as evidence of
34 a violation of sections 1 through 4 of this act.

35 NEW SECTION. **Sec. 5.** This act shall be known as the "Preventing
36 Price Gouging During Emergencies and Disasters Act."

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4 On page 1, line 2 of the title, after "disaster;" strike the
5 remainder of the title and insert "adding new sections to chapter 19.86
6 RCW; and creating a new section."

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