
SENATE BILL 5191

State of Washington

67th Legislature

2021 Regular Session

By Senators Darneille, King, Billig, Carlyle, Conway, Das, Hasegawa, Hunt, Kuderer, Lias, Lovelett, Nguyen, Nobles, Randall, Salomon, Stanford, and Wilson, C.; by request of Attorney General

Read first time 01/13/21. Referred to Committee on Law & Justice.

1 AN ACT Relating to regulating unfair business practices and
2 prohibiting predatory price increases during states of emergency;
3 adding a new chapter to Title 19 RCW; prescribing penalties; and
4 declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature recognizes the need to
7 protect Washingtonians from excessive and unjustified price increases
8 implemented during or shortly after a declared state of emergency for
9 essential goods and services that are vital and necessary for the
10 health, safety, and welfare of consumers.

11 The legislature also recognizes the need to support businesses
12 providing these goods in understanding their obligations to consumers
13 during times of potential chaos and uncertainty in the marketplace.

14 NEW SECTION. **Sec. 2.** The definitions in this section apply
15 throughout this chapter unless the context clearly requires
16 otherwise.

17 (1) "Building materials" means lumber, construction tools,
18 windows, and anything else used in the building or rebuilding of
19 property.

1 (2) "Consumer food item" means any article used or intended for
2 use for food, drink, confection, or condiment by a person or animal.

3 (3) "Emergency supplies" includes, but is not limited to, water,
4 flashlights, radios, batteries, candles, heating and cooking fuel,
5 blankets, soap, diapers, temporary shelters, tape, toiletries,
6 personal hygiene products, plywood, nails, and hammers.

7 (4) "Excessive price" means a price more than 10 percent greater
8 than the price at which the person sold, rented, or offered for sale
9 or rent the same product or service immediately prior to the state of
10 emergency defined in subsection (13) of this section. If the seller
11 did not sell, rent, or offer for sale or rent the product or service
12 immediately prior to the onset of the state of emergency defined in
13 subsection (13) of this section, or if the price charged by the
14 person for the product or service prior to the onset of the state of
15 emergency cannot be determined, an excessive price shall be presumed
16 where the price is more than 10 percent greater than the price of the
17 same product or service offered for sale or rent by other similarly
18 situated sellers prior to the state of emergency defined in
19 subsection (13) of this section.

20 (5) "Gasoline" means any fuel used to power any motor vehicle or
21 power tool.

22 (6) "Health care services" means services necessary to provide
23 medical care that are provided or arranged by a temporary services
24 agency including, but not limited to, services provided by
25 physicians, physician assistants, nurses, and nursing assistants.

26 (7) "Housing" means any dwelling or living space offered for
27 rental to a nonowner in exchange for payment to the owner. This
28 definition includes, but is not limited to, housing provided by a
29 hotel or motel and residence at institutions that provide health
30 care, education, or other services in exchange for payment. The
31 exclusion of a form of housing from the residential landlord tenant
32 act, chapter 59.18 RCW, does not exclude it from coverage by this
33 chapter.

34 (8) "Medical supplies" includes, but is not limited to,
35 prescription and nonprescription medications, pain relievers,
36 infection control and prevention products, bandages, gauze, isopropyl
37 alcohol, and antibacterial products.

38 (9) "Person" means any natural person, proprietorship, company,
39 firm, corporation, limited liability company, partnership,
40 independent contractor, group, unincorporated association, trust,

1 estate, community, agency, institution, joint venture, other business
2 or government organization, or any other legal entity.

3 (10) "Personal protective equipment" means any protective
4 equipment that protects against physical, electrical, heat,
5 chemicals, biohazards, and airborne particulate matter including, but
6 not limited to, clothing, helmets, goggles, or other garments or
7 equipment designed to protect the wearer's body from injury or
8 infection.

9 (11) "Repair or reconstruction services" means work, labor, or
10 services performed by any person for repairs to residential or
11 commercial property of any type that is damaged as a result of a
12 natural or man-made disaster or emergency resulting from an event
13 described in subsection (13) of this section.

14 (12) "Seller" includes any person within the chain of
15 distribution with authority or permission to adjust, set, or regulate
16 a price of any product or service offered for sale or rent subject to
17 section 3 of this act.

18 (13) "State of emergency" means a natural or man-made disaster
19 resulting from an epidemic, pandemic, earthquake, flood, fire, riot,
20 storm, volcanic eruption, act of war, threat of war, military action,
21 terrorist attack, or any other event for which a state of emergency
22 has been declared by the governor of the state of Washington or the
23 president of the United States.

24 (14) "Temporary staffing services company" has the same meaning
25 as set forth in RCW 50.04.245.

26 (15) "Transportation, freight, and storage services" means any
27 service that is performed by a person that contracts to move, store,
28 or transport personal or business property, or rents equipment for
29 those purposes.

30 NEW SECTION. **Sec. 3.** (1) The governor may implement this
31 section by an executive order pursuant to RCW 43.06.220. In the event
32 of a state of emergency as defined in section 2 of this act, no
33 person shall sell, rent, or offer to sell or rent, regardless of
34 whether an actual sale or rental occurs, a good or service listed in
35 this section at an excessive price. Goods and services to which this
36 section applies are:

- 37 (a) Building materials;
38 (b) Consumer food items;

1 (c) Goods or services used for emergency cleanup, regardless of
2 whether the goods or services are listed in this subsection;

3 (d) Emergency supplies;

4 (e) Gasoline;

5 (f) Health care services;

6 (g) Housing;

7 (h) Medical supplies;

8 (i) Repair or reconstruction services;

9 (j) Transportation, freight, and storage services; and

10 (k) Personal protective equipment.

11 (2) A person who increases a price does not violate this section
12 if the price increase is attributable to an additional cost imposed
13 by a supplier of a good or service, or other costs of providing the
14 good or service, including an additional cost for labor or materials
15 used to provide a product or service.

16 (3) If, in the 60 days prior to the governor's implementation of
17 this section, a person sold, rented, or offered for sale or rent a
18 good or service listed in subsection (2) of this section at a reduced
19 price which was lower than the price at which the person ordinarily
20 sells, rents, or offers for sale or rent the good or service in the
21 area for which the declaration was issued, then the price at which
22 that person ordinarily sells, rents, or offers for sale or rent the
23 good or service in the area for which the declaration was issued
24 shall be used in determining if the person is in violation of this
25 section.

26 (4) If the 60 days prior to the governor's implementation
27 reflects quarter 4, November through January, holiday pricing, then
28 the price at which the person ordinarily sells, rents, or offers for
29 sale or rent the good or service in the area in which the declaration
30 was issued shall be based on quarter 3, August through October.

31 NEW SECTION. **Sec. 4.** (1) The attorney general may investigate
32 violations of this chapter. The attorney general may issue subpoenas
33 or civil investigative demands pursuant to RCW 19.86.110 to any
34 person that the attorney general has reason to believe has violated
35 this chapter or has information or knowledge pertaining to a
36 violation of this chapter.

37 (2) The attorney general may issue a cease and desist order to
38 any person to restrain and prevent violations of this chapter. If the
39 recipient of a cease and desist order does not comply within five

1 calendar days of receipt of the order, the attorney general may file
2 an action in superior court at any time thereafter to enforce the
3 cease and desist order. If the court finds that the person violated
4 this chapter and failed to comply with a cease and desist order, the
5 court shall enjoin the person from engaging in conduct that violates
6 this chapter and shall impose a civil penalty of not more than
7 \$10,000 per violation of the cease and desist order. In any
8 successful action to enforce a cease and desist order under this
9 chapter, the court shall award the attorney general the costs of
10 bringing the action, including reasonable investigative costs and
11 reasonable attorneys' fees. The remedies under this subsection are in
12 addition to any other remedies a court may order under subsection (3)
13 of this section.

14 (3) Every person who violates this chapter shall forfeit and pay
15 a civil penalty of no more than \$25,000 per violation.

16 (4) The legislature finds that the practices covered by this
17 chapter are matters vitally affecting the public interest. A
18 violation of this chapter, including, but not limited to, a violation
19 of a cease and desist order issued pursuant to subsection (2) of this
20 section, is not reasonable in relation to the development and
21 preservation of business, and is an unfair or deceptive act in trade
22 or commerce and an unfair method of competition for the purpose of
23 applying the consumer protection act.

24 (5) The remedies provided by this chapter are in addition to any
25 other remedies provided by law.

26 NEW SECTION. **Sec. 5.** Upon application of this act, the office
27 of the attorney general shall produce and maintain on its website
28 translated versions of this act in the top 10 languages spoken in
29 Washington state and, at the discretion of the office of the attorney
30 general, other languages as requested or needed to support small
31 businesses that are either owned or operated, or both, by individuals
32 who have limited English language proficiency. The notice must be
33 made available upon request in printed form on one letter size paper,
34 eight and one-half by 11 inches, and in an easily readable font size.

35 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act
36 constitute a new chapter in Title 19 RCW.

1 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of
3 the state government and its existing public institutions, and takes
4 effect immediately.

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