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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS -
UNFAIR SALES PRACTICES

Introduced By: Senators Algiere, Bates, and Tassoni

Date Introduced: March 01, 2012

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 6-13 of the General Laws entitled "Unfair Sales Practices" is
2 hereby amended by adding thereto the following section:

3 **6-13-21. Price gouging - essential commodities.** -- (a) Upon a declaration of a state
4 of emergency by the governor, or federal disaster declaration by the president, it shall be
5 an unfair sales practice for individuals or retailers, to participate in price gouging, by making
6 sales, or offering to sell, within the area for which the market emergency is declared, essential
7 commodities to consumers for an amount that represents an unconscionably high price.

8 (b) As used in this section:

9 (1) "Unconscionably high price" means the amount charged represents a gross disparity
10 between the average prices at which the same or similar commodity was readily available and
11 sold or offered for sale within the local trade area in the usual course of business during the thirty
12 (30) days immediately before the declaration of the market emergency, and the additional charges
13 are not substantially attributable to increased cost to retailers, imposed by their suppliers,
14 including replacement costs imposed by the vendors' source. Additionally, the average price
15 calculation during said thirty (30) day period shall not include discounted prices set and offered
16 as a result of bona fide manufacturer's or supplier's limited discounts or rebates.

17 (i) Under a federal disaster declaration by the president or upon a declaration of a state of
18 emergency by the governor, it is unlawful and a violation of chapter 6-13 of title 6, and

1 subdivision 30-15-9(e)(12) of title 30, to sell, or offer to sell, at an unconscionably high price,
2 any essential commodity.

3 (2) "Price gouging" means charging a consumer an unconscionably high price for
4 essential commodities during a declared market emergency.

5 (3) "Essential commodities" means any goods, services, materials, merchandise, supplies,
6 equipment, resources, or other article of commerce, and includes, without limitation, home
7 heating fuels, motor fuels, food, water, ice, chemicals, petroleum products and lumber necessary
8 for consumption or use as a direct result of the market emergency.

9 (4) "Market emergency" means any declaration of a state of emergency by the
10 governor or federal disaster declaration by the president. The market emergency shall exist until
11 the declaration expires or is terminated.

12 (5) "Individual" means a person, corporation, partnership, limited liability company,
13 association, joint venture, agency, or any other legal or commercial entity.

14 (6) "Consumer" means an individual who enters into a transaction primarily for personal,
15 family, or household purposes.

16 (7) "Retailer" means and includes every individual licensed to engage in the business of
17 making sales at retail within this state.

18 (c) This section shall not prohibit the fluctuation in price of essential commodities which
19 occur during the normal course of business.

20 (d) Any violation of this section shall constitute an unfair sales practice under the terms
21 of chapter 13.1 of title 6.

22 (e) In addition to the penalties provided in chapter 13.1 of title 6, and subdivision 30-
23 15-9(e)(12), the court may impose orders and civil penalties, including, but not limited to:

24 (1) A fine of not more than one thousand dollars (\$1,000) per violation with an aggregate
25 total not to exceed twenty-five thousand dollars (\$25,000) for any twenty-four (24) hour period;

26 (2) An order to pay costs of litigation relating to the offense;

27 (3) An order for disgorgement of profits earned; and

28 (4) Any other relief determined by the court to be appropriate.

29 (f) All monetary penalties so collected shall accrue to the enforcing authority to further
30 consumer enforcement efforts.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS -
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1 This act would prohibit individuals and retailers of essential commodities from engaging
2 in price gouging during a market emergency or upon a declaration of a state of emergency by the
3 governor or federal disaster declaration.

4 This act would take effect upon passage.

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