

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1989

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SENATE BILL 3

Short Title: Price Gouging Ban.

(Public)

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Sponsors: Senators Plyler, Conder, Basnight, Richardson, Smith; Martin of Pitt, and Parnell.

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Referred to: Rules and Operation of the Senate.

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December 7, 1989

A BILL TO BE ENTITLED

AN ACT TO SPECIFICALLY PROHIBIT PRICE GOUGING DURING ABNORMAL DISRUPTIONS OF THE MARKET FOR NECESSARY GOODS AND SERVICES.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 75 of the General Statutes is amended by adding a new section to read:

**"§ 75-36. Price gouging.**

(a) The General Assembly finds that during periods of abnormal disruption of the market caused by disasters resulting from hurricanes, tornadoes, strikes, power failures, severe shortages or other extraordinary adverse circumstances, some merchants have taken unfair advantage of the public by charging grossly excessive prices for necessary goods and services.

In order to prevent merchants from taking unfair advantage of the public during abnormal disruptions of the market, the General Assembly declares that the public interest requires that such conduct be prohibited and made subject to civil penalties.

(b) Upon the proclamation of a state of disaster under G.S. 166A-6 and until the termination of the state of disaster under G.S. 166A-6, or upon the proclamation of a state of emergency under G.S. 14-288.15 and until the expiration or rescission of the state of emergency under G.S. 14-288.16, no merchant shall sell or offer to sell within any county in this State all or part of which is subject to the state of emergency or state of disaster, or within any county in this State adjacent to such a county, any goods or

1 services necessary to the health, safety, and welfare of the public for an unconscionably  
2 excessive price.

3 (c) Whether a price is unconscionably excessive and whether goods or services  
4 are necessary are questions of law for the court. Evidence that:

5 (1) The amount charged represents a gross disparity between the price of  
6 the goods or services which were the subject of the transaction and  
7 their value measured by the price at which such goods or services were  
8 sold or offered for sale by the merchant in the usual course of business  
9 immediately prior to the onset of the abnormal disruption of the  
10 market; or

11 (2) The amount charged grossly exceeded the price at which the same or  
12 similar goods or services were readily obtainable in the trade area

13 shall constitute **prima facie** proof of a violation of this section.

14 (d) It is an affirmative defense to any action brought under this section that any  
15 price increase was directly attributable to the increased cost of providing goods or  
16 services.

17 (e) Violation of this section shall constitute a violation of G.S. 75-1.1.

18 (f) This section does not limit or repeal the provisions of this Chapter, G.S. 14-  
19 288.12, 14-288.13, 14-288.14, 14-288.15, 153A-121, 160A-174, or 166A-6(c)(2)."

20 Sec. 2. G.S. 166A-6(a) reads as rewritten:

21 "(a) The existence of a state of disaster may be proclaimed by the Governor, or by  
22 ~~a resolution~~~~an act~~ of the General Assembly if either of these finds that a disaster  
23 threatens or exists. Any state of disaster shall terminate by a proclamation of the  
24 Governor or ~~resolution~~~~act~~ of the General Assembly. A proclamation or ~~resolution~~~~act~~  
25 declaring or terminating a state of disaster shall be disseminated promptly by means  
26 calculated to bring its contents to the attention of the general public and, unless the  
27 circumstances attendant upon the disaster prevent or impede, promptly filed with the  
28 Secretary of Crime Control and Public Safety, the Secretary of State and the clerks of  
29 superior court in the area to which it applies."

30 Sec. 3. Section 1 of this act shall become effective with respect to goods and  
31 services sold or offered for sale on or after December 15, 1989. Section 2 of this act is  
32 effective upon ratification.