



General Assembly

January Session, 2007

Raised Bill No. 1137

LCO No. 4098

* SB01137GL 031907 *

Referred to Committee on General Law

Introduced by:
(GL)

AN ACT CONCERNING PRICE GOUGING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42-234 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) As used in this section:

4 (1) "Energy resource" shall include, but not be limited to, middle
5 distillate, residual fuel oil, motor gasoline, propane, aviation gasoline
6 and aviation turbine fuel, natural gas, electricity, coal and coal
7 products, wood fuels and any other resource yielding energy;

8 (2) "Seller" shall include, but not be limited to, a supplier,
9 wholesaler, distributor or retailer involved in the sale or distribution in
10 this state of an energy resource;

11 [(3) "Abnormal market disruption" refers to any stress to an energy
12 resource market resulting from weather conditions, acts of nature,
13 failure or shortage of a source of energy, strike, civil disorder, war,
14 national or local emergency, oil spill or other extraordinary adverse

15 circumstance.]

16 (3) "Additional costs" means all replacement and transportation
17 costs and taxes incurred by a person within the chain of distribution;

18 (4) "Gross disparity" means an increase of more than fifteen per cent
19 in the price of an energy resource;

20 (5) "Unconscionably excessive" means a price that represents a gross
21 disparity between the price of an energy resource when compared to
22 the highest price such energy resource was sold or offered for sale by
23 the seller in the usual course of business during the seven days
24 immediately prior to the declaration by the Governor of an energy
25 resource market disruption emergency pursuant to subsection (e) of
26 this section.

27 (b) No seller during any [period of abnormal market disruption]
28 energy resource market disruption emergency declared by the
29 Governor pursuant to subsection (e) of this section, or during any
30 period in which [an imminent abnormal market disruption] such
31 emergency is reasonably anticipated shall sell or offer to sell an energy
32 resource for an amount that represents an unconscionably excessive
33 price.

34 (c) Evidence that (1) the amount charged represents a gross
35 disparity between the price of an energy resource that was the subject
36 of the transaction and the price at which such energy resource was
37 sold or offered for sale by the seller in the usual course of business
38 immediately prior to [(A) the onset of an abnormal market disruption,
39 or (B)] an energy resource market disruption emergency declared by
40 the Governor pursuant to subsection (e) of this section, or any period
41 in which [an imminent abnormal market disruption] such emergency
42 is reasonably anticipated, and (2) the amount charged by the seller was
43 not attributable to additional costs incurred by the seller in connection
44 with the sale of such product, shall constitute prima facie evidence that
45 a price is unconscionably excessive.

46 (d) This section shall not be construed to limit the ability of the
47 Commissioner of Consumer Protection or the courts to establish
48 certain acts or practices as unfair or unconscionable in the absence of
49 [abnormal market disruptions] an energy resource market disruption
50 emergency declared by the Governor pursuant to subsection (e) of this
51 section.

52 (e) In the event of a state-wide or regional shortage or threatened
53 shortage of an energy resource due to an abnormal market disruption
54 resulting from a natural disaster, weather conditions, acts of nature,
55 strike, civil disorder, war, national or local emergency or other
56 extraordinary adverse circumstance, the Governor may proclaim that
57 an energy resource market disruption emergency exists. Upon the
58 declaration of such emergency, the Governor may in connection
59 therewith issue orders designating an energy resource to be in short
60 supply or in danger of becoming in short supply in the state or in a
61 specific region of the state and imposing price restrictions or rationing
62 with respect thereto. Prior to the issuance of such an order, the
63 Governor shall make written findings that there is an abnormal market
64 disruption, that the energy resource is in short supply or is in danger
65 of becoming in short supply due to such disruption, that the energy
66 resource is essential to the health, safety and welfare of the people of
67 the state, and that the imposition of price restrictions on the energy
68 resource or rationing of such resource is necessary to assure the health,
69 safety and welfare of the people of the state.

70 (f) Any proclamation or order issued pursuant to this section shall
71 become effective upon its filing in the office of the Secretary of the
72 State and with the clerks of the Senate and the House of
73 Representatives. Such proclamation or order shall be published in full
74 at least once in a newspaper having general circulation in each county,
75 provided failure to publish shall not impair the validity of such
76 proclamation or order. Unless disapproved in accordance with the
77 provisions of subsection (g) of this section, any proclamation or order
78 shall remain in effect until the Governor proclaims an end to the

79 emergency or until ninety days after the date of the proclamation of
80 the emergency, whichever occurs first.

81 (g) Any proclamation or order issued pursuant to this section may
82 be disapproved by a majority vote of each house of the General
83 Assembly. Any such disapproval shall become effective upon filing
84 notice of such action with the office of the Secretary of the State.

85 (h) Any natural person, trade association, corporation or other
86 entity may register with the Commissioner of Consumer Protection as
87 an agent for the purpose of being notified by said commissioner or
88 said commissioner's agent in the event the Governor declares an
89 energy resource market disruption emergency pursuant to subsection
90 (e) of this section. Such natural person, trade association, corporation
91 or other entity shall be notified of such emergency by said
92 commissioner or said commissioner's agent in an expeditious manner
93 when the Governor declares an energy resource market disruption
94 emergency.

95 (i) A violation of the provisions of subsection (b) of this section shall
96 be deemed an unfair or deceptive trade act or practice under
97 subsection (a) of section 42-110b.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	42-234

GL *Joint Favorable*