



General Assembly

January Session, 2011

Raised Bill No. 1089

LCO No. 3922

03922_____GL_

Referred to Committee on General Law

Introduced by:

(GL)

AN ACT PROHIBITING PRICE GOUGING DURING SEVERE WEATHER EVENTS AND MAKING MINOR AND TECHNICAL REVISIONS TO THE UNIFORM ADMINISTRATIVE PROCEDURE ACT AND DEPARTMENT OF CONSUMER PROTECTION STATUTES.

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

1 Section 1. (NEW) (*Effective from passage*) (a) For purposes of this
2 section:

3 (1) "Severe weather event" means any event resulting from adverse
4 weather conditions which create an unusually high demand for
5 consumer goods and services and which demand results in a
6 declaration by the Governor pursuant to subsection (b) of this section.

7 (2) "Consumer goods and services" means goods and services that
8 are vital and necessary for the health, welfare or safety of consumers
9 and are used, bought or rendered primarily for personal, family or
10 household purposes. Consumer goods and services, include, but are
11 not limited to, snow removal and flood abatement.

12 (b) The Governor may issue a severe weather event declaration. The
13 Governor shall post notice of such declaration on the home page of the

14 Internet web site of the office of the Governor. Such notice shall
15 include the inception and end date of any such event.

16 (c) During any severe weather event, no person within the chain of
17 distribution of consumer goods or services shall sell or offer to sell
18 such goods or services for an amount which represents an
19 unconscionably excessive price.

20 (d) (1) Whether a price is unconscionably excessive is a question of
21 law for the court. The court's determination that a violation of
22 subsection (c) of this section has occurred shall be based on the
23 following factors: (A) That the amount of the excess in price is
24 unconscionably extreme, (B) that there was an exercise of unfair
25 leverage or unconscionable means, or (C) a combination of both factors
26 in subparagraphs (A) and (B) of this subdivision.

27 (2) In a proceeding commenced pursuant to subsection (e) or (f) of
28 this section, prima facie proof that a violation of subsection (c) of this
29 section has occurred shall include evidence that: (A) The amount
30 charged represents a gross disparity between the price of the goods or
31 services which were the subject of the transaction and their value
32 measured by the price at which such consumer goods or services were
33 sold or offered for sale by the defendant in the usual course of business
34 immediately prior to the onset of the severe weather event, or (B) the
35 amount charged grossly exceeded the price at which the same or
36 similar goods or services were readily obtainable by other consumers
37 in the trade area. A defendant may rebut a prima facie case with
38 evidence that the prices charged were a result of additional costs not
39 within the control of the defendant were imposed on the defendant for
40 such goods or services.

41 (e) A violation of the provisions of subsection (c) of this section shall
42 be deemed an unfair trade or deceptive practice under subsection (a)
43 of section 42-110b of the general statutes.

44 (f) Each violation and each day on which the violation occurs or

45 continues shall be a separate offense.

46 Sec. 2. Subsection (a) of section 4-168 of the general statutes is
47 repealed and the following is substituted in lieu thereof (*Effective*
48 *October 1, 2011*):

49 (a) Except as provided in subsection (g) of this section, an agency,
50 prior to adopting a proposed regulation, shall: (1) Give at least thirty
51 days' notice by publication in the Connecticut Law Journal of its
52 intended action. The notice shall include (A) either a statement of the
53 terms or of the substance of the proposed regulation or a description
54 sufficiently detailed so as to apprise persons likely to be affected of the
55 issues and subjects involved in the proposed regulation, (B) a
56 statement of the purposes for which the regulation is proposed, (C) a
57 reference to the statutory authority for the proposed regulation, (D)
58 when, where and how interested persons may obtain a copy of the
59 small business impact and regulatory flexibility analyses required
60 pursuant to section 4-168a, and (E) when, where and how interested
61 persons may present their views on the proposed regulation; (2) give
62 notice [by mail] to each joint standing committee of the General
63 Assembly having cognizance of the subject matter of the proposed
64 regulation; (3) give notice [by mail] to all persons who have made
65 requests to the agency for advance notice of its regulation-making
66 proceedings. The agency may charge a reasonable fee for such notice
67 based on the estimated cost of providing the service; (4) provide a
68 paper copy or electronic version of the proposed regulation to persons
69 requesting it. The agency may charge a reasonable fee for copies in
70 accordance with the provisions of section 1-212; (5) no later than the
71 date of publication of the notice in the Connecticut Law Journal,
72 prepare a fiscal note, including an estimate of the cost or of the
73 revenue impact (A) on the state or any municipality of the state, and
74 (B) on small businesses in the state, including an estimate of the
75 number of small businesses subject to the proposed regulation and the
76 projected costs, including but not limited to, reporting, recordkeeping
77 and administrative, associated with compliance with the proposed

78 regulation and, if applicable, the regulatory flexibility analysis
79 prepared under section 4-168a. The governing body of any
80 municipality, if requested, shall provide the agency, within twenty
81 working days, with any information that may be necessary for analysis
82 in preparation of such fiscal note; (6) afford all interested persons
83 reasonable opportunity to submit data, views or arguments, orally at a
84 hearing granted under subdivision (7) of this subsection or in writing,
85 and to inspect and copy the fiscal note prepared pursuant to
86 subdivision (5) of this subsection; (7) grant an opportunity to present
87 oral argument if requested by fifteen persons, by a governmental
88 subdivision or agency or by an association having not less than fifteen
89 members, if notice of the request is received by the agency within
90 fourteen days after the date of publication of the notice; and (8)
91 consider fully all written and oral submissions respecting the proposed
92 regulation and revise the fiscal note in accordance with the provisions
93 of subdivision (5) of this subsection to indicate any changes made in
94 the proposed regulation. No regulation shall be found invalid due to
95 the failure of an agency to give notice to each committee of cognizance
96 pursuant to subdivision (2) of this subsection, provided one such
97 committee has been so notified.

98 Sec. 3. Subdivision (1) of subsection (a) of section 20-306 of the
99 general statutes is repealed and the following is substituted in lieu
100 thereof (*Effective October 1, 2011*):

101 (a) (1) The Department of Consumer Protection shall notify [by
102 mail] each person licensed under this chapter of the date of the
103 expiration of such license and the amount of the fee required for its
104 renewal for one year. Such license renewals shall be accompanied by
105 the payment of the professional services fee for class G, as defined in
106 section 33-182*l*, in the case of a professional engineer license, a
107 professional engineer and land surveyor combined license, or a land
108 surveyor license. The license shall be considered lapsed if not renewed
109 within thirty days following the normal expiration date.

110 Sec. 4. Section 30-20 of the general statutes is repealed and the
111 following is substituted in lieu thereof (*Effective October 1, 2011*):

112 (a) A package store permit shall allow the retail sale of alcoholic
113 liquor not to be consumed on the premises, such sales to be made only
114 in sealed bottles or other containers. The holder of a package store
115 permit may, in accordance with regulations adopted by the
116 Department of Consumer Protection pursuant to the provisions of
117 chapter 54, offer free samples of alcoholic liquor for tasting on the
118 premises, conduct demonstrations and conduct tastings or
119 demonstrations provided by a permittee or backer of a package store
120 for a nominal charge to charitable nonprofit organizations. Any
121 offering, tasting or demonstration held on permit premises shall be
122 conducted only during the hours a package store is permitted to sell
123 alcoholic liquor under section 30-91. No store operating under a
124 package store permit shall sell any commodity other than alcoholic
125 liquor except that, notwithstanding any other provision of law, such
126 store may sell (1) cigarettes, (2) publications, (3) bar utensils, which
127 shall include, but need not be limited to, corkscrews, beverage
128 strainers, stirrers or other similar items used to consume or related to
129 the consumption of alcoholic liquor, (4) gift packages of alcoholic
130 liquor shipped into the state by a manufacturer or out-of-state shipper,
131 which may include a nonalcoholic item in the gift package that may be
132 any item, except food or tobacco products, provided the dollar value of
133 the nonalcoholic items does not exceed the dollar value of the alcoholic
134 items of the package, (5) nonalcoholic beverages, (6) concentrates used
135 in the preparation of mixed alcoholic beverages, (7) beer and wine-
136 making kits and products related to beer and wine-making kits, (8) ice
137 in any form, (9) articles of clothing imprinted with advertising related
138 to the alcoholic liquor industry, (10) gift baskets or other containers of
139 alcoholic liquor, (11) multiple packages of alcoholic liquors, as defined
140 in subdivision (3) of section 30-1, provided in all such cases the
141 minimum retail selling price for such alcoholic liquor shall apply, and
142 (12) lottery tickets authorized by the Division of Special Revenue, if
143 licensed as an agent to sell such tickets by said division. A package

144 store permit shall also allow the taking and transmitting of orders for
145 delivery of such merchandise in other states. Notwithstanding any
146 other provision of law, a package store permit shall allow the
147 participation in any lottery ticket promotion or giveaway sponsored by
148 the Division of Special Revenue. The annual fee for a package store
149 permit shall be five hundred thirty-five dollars. [plus the sum required
150 by section 30-66.]

151 (b) A grocery store beer permit may be granted to any grocery store
152 and shall allow the retail sale of beer in standard size containers not to
153 be consumed on the premises. A holder of a grocery store beer permit
154 shall post in a prominent location adjacent to the beer display, the
155 retail price for each brand of beer and said retail price shall include all
156 applicable federal and state taxes including the applicable state sales
157 taxes. The annual fee for a grocery store beer permit shall be one
158 hundred [sixty] seventy dollars. [plus the sum required by section 30-
159 66.]

160 (c) "Grocery store" means any store commonly known as a
161 supermarket, food store, grocery store or delicatessen, primarily
162 engaged in the retail sale of all sorts of canned goods and dry goods
163 such as tea, coffee, spices, sugar and flour, either packaged or in bulk,
164 with or without fresh fruits and vegetables, and with or without fresh,
165 smoked and prepared meats, fish and poultry, except that no store
166 primarily engaged in the retail sale of seafood, fruits and vegetables,
167 candy, nuts and confectioneries, dairy products, bakery products or
168 eggs and poultry shall be included in the definition of "grocery store".

169 Sec. 5. Section 30-36 of the general statutes is repealed and the
170 following is substituted in lieu thereof (*Effective October 1, 2011*):

171 A druggist permit may be issued by the Department of Consumer
172 Protection to a drug store proprietor. No druggist permit shall be
173 issued covering a new drug store or a new location for an old drug
174 store until the Commission of Pharmacy is satisfied that a drug store at
175 such location is necessary to the convenience and best interest of the

176 public. A druggist permit (1) shall allow the use of alcoholic liquors for
 177 the compounding of prescriptions of physicians, advanced practice
 178 registered nurses, physician assistants and dentists and for the
 179 manufacturing of all United States Pharmacopoeia and National
 180 Formulary preparations and all other medicinal preparations, (2) shall
 181 allow the retail sale of alcoholic liquor in containers of not less than
 182 eight ounces or one hundred eighty-seven and one-half milliliters and
 183 not more than one quart or one liter capacity except that beer may be
 184 sold in containers of not more than forty ounces or twelve hundred
 185 milliliters capacity, to any person, and (3) shall forbid the drinking of
 186 such alcoholic liquor on the premises of any drug store. Such permittee
 187 shall keep all alcoholic liquors in compartments, which compartments
 188 shall be securely locked except during those hours when the sale of
 189 alcoholic liquor is permitted by law. The holder of a druggist permit
 190 shall not display any alcoholic liquors or containers, marked or labeled
 191 or in any other way suggesting the contents of intoxicating liquors, in
 192 the windows of the permit premises. The Commission of Pharmacy
 193 shall revoke or suspend the pharmacy license of any pharmacist upon
 194 whose premises any violation of any provision of this section occurs.
 195 The annual fee for a druggist permit shall be five hundred thirty-five
 196 dollars. [plus the sum required by section 30-66.]

197 Sec. 6. Section 30-66 of the general statutes is repealed. (*Effective*
 198 *October 1, 2011*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>October 1, 2011</i>	4-168(a)
Sec. 3	<i>October 1, 2011</i>	20-306(a)(1)
Sec. 4	<i>October 1, 2011</i>	30-20
Sec. 5	<i>October 1, 2011</i>	30-36
Sec. 6	<i>October 1, 2011</i>	Repealer section

Statement of Purpose:

To provide the Department of Consumer Protection and other state agencies with various options concerning notice to interested parties, to repeal and make adjustments regarding an unnecessary administrative liquor fee and to protect consumers from price gouging during severe weather market disruptions.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]