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State of Connecticut

SENATE DEMOCRATS
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Testimony of

Senator Donald E. Williams, Jr.
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On

Raised Bill 60: An Act Prohibiting Price Gouging During Severe Weather Events

Committee on General Law

February 21, 2012

Senator Doyle, Representative Taborsak and members of the committee, thank you for this opportunity to testify in support of Raised Bill 60: *An Act Prohibiting Price Gouging During Severe Weather Events*. The goal of this bill is to provide what we believe is much-needed protection for Connecticut consumers, by broadening the scope of our price gouging laws. In particular, we believe we need to significantly expand the circumstances under which price gouging for services is prohibited under Connecticut law.

Over the past year and a half, our state has been struck by a pattern of extreme weather events that have threatened not only our sense of well-being, but in many cases our homes themselves. We have experienced the damaging effects of last winter's historic, repeated snowfalls, the landfall of Hurricane Irene, and our devastating October snowstorm. A by-product of the vulnerabilities exposed by these storms was our evident and heightened need for emergency services provided by others; for example the need to have snow removed from the roofs of our homes and businesses last winter, the need for lodging services during the extended power outages last fall, and the need for flood abatement services. With such widespread weather-related vulnerabilities and needs come an opportunity for those service providers who would be unscrupulous to price gouge, and each storm brought with it numerous reports of price gouging for vital and necessary services.

Unfortunately, it is our strong belief that Connecticut's current statutory scheme on price gouging is woefully inadequate as it relates to price gouging for services, and could be improved as it relates to vital and necessary consumer goods as well. Indeed, the main price gouging statute, section 42-230, applies only to goods, and not services. Even then, it applies only during a disaster or civil preparedness emergency declaration by the governor or President of the United States, and only in the geographical area that is the direct subject of such declaration. Section 42-232 does apply to services, but only in the very rare event of a supply emergency or energy emergency declaration by the governor. These declarations are so extreme that they give the governor the power to order rationing, and it becomes a criminal as well as a civil violation to charge above market prices. Finally, section 42-234 is our only price gouging statute that can be triggered short of a formal civil preparedness, disaster, supply or energy emergency declaration by the governor or President, but it only applies to the sale of petroleum products like gasoline.

We believe our price gouging laws should be expanded to 1) cover both vital and necessary goods and services equally, and 2) protect consumers during very adverse weather conditions that can result in the exercise of unconscionably extreme leverage by contractors and retailers, even in situations that may not rise to the most extreme levels of a civil preparedness, supply, or energy emergency being declared in the State of Connecticut.

The language in Raised Bill 60 is substantially similar to a measure that passed both this Committee and the Senate last year in bi-partisan fashion. We thank the Attorney General and Commissioner of Consumer Protection, both of whom worked closely with us on this bill. The bill prohibits price gouging equally for consumer goods *and services* that are vital and necessary for the health, safety and welfare of consumers, including but not limited to the provision of lodging, snow removal, flood abatement and other post-storm cleanup or repair services. Such extra consumer protections would be triggered when the governor determines that adverse weather conditions have created an unusually high demand for vital and necessary consumer goods and services, and that therefore a "severe weather event emergency" has occurred. This type of proclamation by the governor could be short of a full blown supply emergency or civil preparedness emergency declaration. As mentioned, a supply emergency declaration brings with it rationing and heightened criminal violations, and civil preparedness and disaster declarations have various ramifications across a much wider breadth of our statutes.

Under the bill, vital and necessary consumer goods and services cannot be sold or offered for sale for "an unconscionably excessive price" during the time of the governor's proclamation. Whether a price is "unconscionably excessive" would be determined by a court, taking into account whether there had been "an exercise of unfair leverage or unconscionable means" or "if the amount of the excess in price" had been "unconscionably extreme". Prima facie evidence that a violation has occurred includes whether there was a "gross disparity" in the average price of goods or services in the 30 day period before the severe weather event emergency, and then during the emergency, and also whether "the amount charged grossly exceeded the price at which the same or similar goods or services were readily obtainable by other consumers in the trade area."

We respectfully assert that adoption of this bill would greatly enhance our consumer protection laws. We look forward to working with you on this critical issue this session.