

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 13-175—SB 320
General Law Committee
Judiciary Committee

AN ACT PROHIBITING PRICE GOUGING DURING SEVERE WEATHER EVENTS

SUMMARY: This act extends the bar on excessive price increases (price gouging) to consumer goods and services sold during a severe weather event emergency proclaimed by the governor (weather emergency). By law, price gouging is already barred for (1) products under a civil preparedness emergency declaration, (2) products and services under a supply emergency declaration, and (3) energy resources during abnormal market disruptions.

Under the act, no distributor or seller can sell or offer to sell consumer goods or services for an “unconscionably excessive price” during a weather emergency. It exempts energy resource (e.g., gasoline) sellers, who are covered under a separate price gouging law. Whether a price is unconscionably excessive is based on several factors, which a defendant may rebut.

A seller who violates the act commits an unfair trade or deceptive practice (CUTPA) violation and each day the violation occurs or continues is a separate offense.

The act does not limit the Department of Consumer Protection (DCP) commissioner’s or a court’s authority to find CUTPA violations in the absence of a governor’s proclamation.

EFFECTIVE DATE: Upon passage

SEVERE WEATHER EVENT

Under the act, the governor may proclaim a weather emergency exists when adverse weather conditions create an unusually high demand for consumer goods or services. He must post a notice of the proclamation and its end date on his office website.

PRICE GOUGING

During a proclaimed weather emergency, the act prohibits distributors and sellers from selling or offering to sell for an unconscionably excessive price, goods and services vital and necessary for consumer health, safety, or welfare and used, bought, or rendered primarily for personal, family, or household purposes. Goods and services include lodging, snow removal, flood abatement, and post-storm cleanup or repair services.

To determine if a violation occurs, the DCP commissioner or court must consider: (1) whether the price was unconscionably excessive, (2) whether unfair leverage or unconscionable means were used in setting the price, or (3) a

OLR PUBLIC ACT SUMMARY

combination of these factors. Prima facie evidence of unconscionably excessive pricing exists when there is (1) a gross disparity between the price of the goods or services during the weather emergency and their average price 30 days before the emergency began or (2) evidence that the sale price for the goods or services grossly exceeded the sale price to other consumers in the trade area.

A defendant may rebut prima facie evidence by showing that (1) he or she incurred additional costs to acquire the goods or services and (2) the additional costs were out of his or her control.

BACKGROUND

Price Gouging Law—Goods

The law prohibits anyone from increasing the retail price of any goods, but not services, when the governor issues a disaster or transportation emergency declaration or the president issues a major disaster or emergency declaration. A violation is deemed a CUTPA violation and violators are also subject to a fine of up to \$99 (CGS § 42-230).

Supply Emergency

In the event of a state wide, regional, or threatened shortage of a product or service because of an abnormal market disruption, the governor may proclaim a supply emergency exists. He may then designate a product or service to be in short supply and impose price restrictions or ration it (CGS § 42-231).

Under a supply emergency, no one can sell or offer to sell a product or service at a price higher than it was sold or offered in the course of business just before the declaration. A violation is deemed a CUTPA violation and violators are also subject to varying fines and imprisonment terms (CGS § 42-232).

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for a willful violation and \$25,000 for violation of a restraining order.

OLR Tracking: DC:KLM:JKL:RO