

## State Declaration of Supply Emergencies

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May 29, 2020 | 2020-R-0139

### Issue

Summarize Connecticut's supply emergency law.

### Summary

Connecticut law allows the governor to proclaim a supply emergency when there is a shortage or threatened shortage of a supply or service due to an abnormal market disruption. Upon such a declaration, the governor may impose price restrictions or require rationing of the product or service. The law allows the General Assembly to disapprove any proclamation or order with a majority vote of each house.

The law allows anyone who is aggrieved by a supply emergency order to file a petition with the Department of Consumer Protection (DCP) commissioner for an exemption. She may grant an exemption to anyone who is unable to comply with the order without suffering inordinate hardship beyond the hardship suffered by individuals generally.

Violations of the supply emergency or an associated order are punishable by both fines and imprisonment. They could also be deemed an unfair or deceptive trade practice (i.e., a CUTPA violation).

The supply emergency law does not apply to energy resource (e.g., gasoline) sellers, who are covered under a separate price gouging law during abnormal market disruptions ([CGS § 42-234](#)).

## **Supply Emergencies**

### ***Governor's Proclamation***

State law allows the governor to proclaim that a supply emergency exists in the event of a statewide or regional shortage or threatened shortage of a product or service due to an abnormal market disruption ([CGS § 42-231\(a\)](#)). This disruption could be caused by a natural disaster, weather conditions, acts of nature, strike, civil disorder, war, national or local emergency, or other extraordinary adverse circumstance. Upon the declaration, the governor may issue orders designating a product or service to be in short supply or in danger of becoming in short supply in the state or specific region of the state.

### ***Price Restriction or Rationing***

Under a supply emergency declaration, the governor may impose price restrictions or require rationing if he believes doing so is necessary to assure the health, safety, and welfare of people in the state. But before doing so, he must make written findings that there is an abnormal market disruption and the product or service is (1) in short supply or in danger of being in short supply and (2) essential to the health, safety, and welfare of the people (e.g., food, clothing, shelter, and products used or services provided to protect life or property) ([CGS § 42-231\(a\)](#)).

### ***Filing, Notification, and Disapproval***

The law requires proclamations and related orders to be (1) filed with the Secretary of the State and with the clerks of the Senate and House of Representatives and (2) published in full in at least one newspaper having general circulation in each county. But it also specifies that failing to notify does not invalidate the proclamation or order.

The law also allows the General Assembly to disapprove any proclamation or order with a majority vote of each house ([CGS § 42-231\(b\) & \(c\)](#)). Unless a proclamation or order is disapproved, it is in effect until the governor proclaims an end to the emergency or until 90 days after the date of the proclamation, whichever occurs first.

### ***Registry of Sellers***

The law requires the DCP commissioner to adopt regulations regarding rationing products or services under a supply emergency ([CGS § 42-231\(d\)](#)). By regulation, upon a rationing order from the governor, the DCP commissioner must investigate the matter and compile a registry of sellers ([Conn. Agency Regs., § 42-231-2](#)). The regulations require (1) the sellers to register with DCP and provide certain information on the amount of the product or service they possess or have available

and (2) the DCP commissioner to periodically determine the amount of product or service available and ration the amount each seller may offer for sale until the next periodic determination.

### ***Exemptions***

The law allows anyone who is aggrieved by a supply emergency order to file a petition with the DCP commissioner for an exemption ([CGS § 42-233](#)). The commissioner may grant an exemption to anyone who is unable to comply with the order without suffering inordinate hardship beyond the hardship suffered by individuals generally.

The commissioner may investigate any petition and consider in her decision any relevant factual finding from the investigation. She may also consider other sources of relevant information and hold an informal hearing. The commissioner must grant, deny, or dismiss a petition without prejudice within 30 days after receiving it.

The law allows the commissioner to reconsider and alter any decision she deems necessary. She may suspend or revoke any exemption for any reason (e.g., changed circumstance or failure of petitioner to comply with specified conditions).

The Uniform Administrative Procedure Act's (UAPA) provisions on hearings are not applicable to supply emergency proceedings, but anyone aggrieved by the commissioner's decision may appeal in accordance to the UAPA.

### ***Violations and Penalties***

During a supply emergency, the law prohibits anyone from selling or offering for sale any product or service covered by the declaration at a price higher than its price immediately before the declaration ([CGS § 42-232\(a\)](#)). Not all price increases are prohibited, only those that cannot be justified in the normal course of business market fluctuations.

Violators of these provisions or any supply declaration order must be fined up to \$1,000, imprisoned up to one year, or both. Those who intentionally violate these provisions or orders or engage in a pattern of activity constituting repeated violations are guilty of a class D felony, which is punishable by up to five years imprisonment, a fine of up to \$5,000, or both. Each violation and each day the violation occurs or continues is a separate offense.

A violation is deemed an unfair or deceptive trade practice under the Connecticut Unfair Trade Practices Act (CUTPA). Among other things, CUTPA allows the DCP commissioner to investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000,

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 willful violations and \$25,000 for a violation of a restraining order ([CGS § 42-110b et seq.](#)).

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