

Part 2 Excessive Prices Prohibited

13-41-201 Excessive price prohibited.

- (1) Except as provided in Subsection (2), if a state of emergency exists, a person may not charge a consumer an excessive price for goods or services sold or provided at retail:
 - (a)
 - (i) during the time period for which a state of emergency declared by the governor exists; or
 - (ii) for 30 days after the day on which the state of emergency begins, if declared by the President of the United States; and
 - (b) within the emergency territory.
- (2) A person may charge an excessive price if:
 - (a) that person's cost of obtaining the good or providing the service exceeds the average cost to the person of obtaining the good or providing the service in the 30-day period immediately preceding the day on which the state of emergency is declared; and
 - (b) the price charged for the good or service does not exceed the sum of:
 - (i) 10% above the total cost to that person of obtaining the good or providing the service; and
 - (ii) the person's customary markup.
- (3) Upon request of the division, a person allegedly charging an excessive price under Subsection (2) shall provide documentation to the division that the person is in compliance with this chapter.
- (4) If a good or service has not been sold by a person during the 30-day period immediately preceding the day on which the state of emergency is declared, a price is not excessive if it does not exceed 30% above the person's total cost of obtaining the good or providing the service.

Enacted by Chapter 306, 2005 General Session

13-41-202 Enforcement -- Penalty.

- (1) The division shall enforce this chapter.
- (2) In determining whether to impose penalties against a person who violates this chapter, the division shall consider:
 - (a) the person's cost of doing business not accounted for in the cost to the person of the good or service, including costs associated with a decrease in the supply available to a person who relies on a high volume of sales;
 - (b) the person's efforts to comply with this chapter;
 - (c) whether the average price charged by the person during the 30-day period immediately preceding the day on which the state of emergency is declared is artificially deflated because the good or service was on sale for a lower price than the person customarily charges for the good or service; and
 - (d) any other factor that the division considers appropriate.
- (3)
 - (a) If the division finds that a person has violated, or is violating, this chapter, the division may:
 - (i) issue a cease and desist order; and
 - (ii) subject to Subsection (3)(b), impose an administrative fine of up to \$1,000 for each violation of this chapter.

- (b) Each instance of charging an excessive price under Section 13-41-201 constitutes a separate violation, but in no case shall the administrative fine imposed under Subsection (3)(a) exceed \$10,000 per day.
- (4) The division may sue in a court of competent jurisdiction to enforce an order under Subsection (3).
- (5) In a suit brought under Subsection (3), if the division prevails, the court may award the division:
 - (a) court costs;
 - (b) attorney fees; and
 - (c) the division's costs incurred in the investigation of the violation of this chapter.
- (6) All money received through an administrative fine imposed, or judgment obtained, under this section shall be deposited in the Consumer Protection Education and Training Fund created by Section 13-2-8.

Amended by Chapter 153, 2006 General Session