

## **Chapter 41 Price Controls During Emergencies Act**

### **Part 1 General Provisions**

#### **13-41-101 Title.**

This chapter is known as the "Price Controls During Emergencies Act."

Enacted by Chapter 306, 2005 General Session

#### **13-41-102 Definitions.**

For purposes of this chapter:

- (1) "Consumer" means a person who acquires a good or service for consumption.
- (2) "Division" means the Division of Consumer Protection.
- (3)
  - (a) "Emergency territory" means the geographical area:
    - (i) for which there has been a state of emergency declared; and
    - (ii) that is directly affected by the events giving rise to a state of emergency.
  - (b) "Emergency territory" does not include a geographical area that is affected by the events giving rise to a state of emergency only by economic market forces.
- (4) "Excessive price" means a price for a good or service that exceeds by more than 10% the average price charged by that person for that good or service in the 30-day period immediately preceding the day on which the state of emergency is declared.
- (5) "Good" means any personal property displayed, held, or offered for sale by a merchant that is necessary for consumption or use as a direct result of events giving rise to a state of emergency.
- (6) "Retail" means the level of distribution where a good or service is typically sold directly, or otherwise provided, to a member of the public who is an end user and does not resell the good or service.
- (7) "Service" means any activity that is performed in whole or in part for the purpose of financial gain including personal service, professional service, rental, leasing, or licensing for use that is necessary for consumption or use as a direct result of events giving rise to a state of emergency.
- (8) "State of emergency" means a declaration of:
  - (a) an emergency or major disaster by the president of the United States of America; or
  - (b) a state of emergency by the governor under Section 53-2a-206.

Amended by Chapter 295, 2013 General Session

### **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