

1 **PRICE CONTROLS DURING EMERGENCIES**

2 **AMENDMENTS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Patrice M. Arent**

6 House Sponsor: David Clark

7

8 **LONG TITLE**

9 **General Description:**

10 This bill addresses the territorial extent of an emergency for purposes of Title 13,
11 Chapter 41, Price Controls During Emergencies Act.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines "emergency territory"; and
- 15 ▶ makes technical changes.

16 **Monies Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **13-41-102**, as enacted by Chapter 306, Laws of Utah 2005

23 **13-41-202**, as enacted by Chapter 306, Laws of Utah 2005

24

25 *Be it enacted by the Legislature of the state of Utah:*

26 Section 1. Section **13-41-102** is amended to read:

27 **13-41-102. Definitions.**



28 For purposes of this chapter:

29 (1) "Consumer" means a person who acquires a good or service for consumption.

30 (2) "Division" means the Division of Consumer Protection.

31 (3) (a) "Emergency territory" means the geographical area:

32 (i) for which there has been a state of emergency declared[-]; and

33 (ii) that is directly affected by the events giving rise to a state of emergency.

34 (b) "Emergency territory" does not include a geographical area that is affected by the
35 events giving rise to a state of emergency only by economic market forces.

36 (4) "Excessive price" means a price for a good or service that exceeds by more than
37 10% the average price charged by that person for that good or service in the 30-day period
38 immediately preceding the day on which the state of emergency is declared.

39 (5) "Good" means any personal property displayed, held, or offered for sale by a
40 merchant that is necessary for consumption or use as a direct result of events giving rise to a
41 state of emergency.

42 (6) "Retail" means the level of distribution where a good or service is typically sold
43 directly, or otherwise provided, to a member of the public who is an end-user and does not
44 resell the good or service.

45 (7) "Service" means any activity that is performed in whole or in part for the purpose of
46 financial gain including, but not limited to, personal service, professional service, rental,
47 leasing, or licensing for use that is necessary for consumption or use as a direct result of events
48 giving rise to a state of emergency.

49 (8) "State of emergency" means a declaration of:

50 (a) an emergency or major disaster by the President of the United States of America; or

51 (b) a state of emergency by the governor under Section 63-5a-5.

52 Section 2. Section **13-41-202** is amended to read:

53 **13-41-202. Enforcement -- Penalty.**

54 (1) The division shall enforce this chapter.

55 (2) In determining whether to impose penalties against a person who violates this
56 chapter, the division shall consider:

57 (a) the person's cost of doing business not accounted for in the cost to the person of the
58 good or service, including costs associated with a decrease in the supply available to a person

59 who relies on a high volume of sales;

60 (b) the person's efforts to comply with this chapter;

61 (c) whether the average price charged by the person during the 30-day period
62 immediately preceding the day on which the state of emergency is declared is artificially
63 deflated because the good or service was on sale for a lower price than the person customarily
64 charges for the good or service; and

65 (d) any other factor that the division considers appropriate.

66 (3) (a) If the division finds that a person has violated, or is violating, this chapter, the
67 division may:

68 (i) issue a cease and desist order; and

69 (ii) subject to Subsection [~~(2)~~] (3)(b), impose an administrative fine of up to \$1,000 for
70 each violation of this chapter.

71 (b) Each instance of charging an excessive price under Section 13-41-201 constitutes a
72 separate violation, but in no case shall the administrative fine imposed under Subsection (3)(a)
73 exceed \$10,000 per day.

74 (4) The division may sue in a court of competent jurisdiction to enforce an order under
75 Subsection (3).

76 (5) In a suit brought under Subsection (3), if the division prevails, the court may award
77 the division:

78 (a) court costs;

79 (b) attorney fees; and

80 (c) the division's costs incurred in the investigation of the violation of this chapter.

81 (6) All money received through an administrative fine imposed, or judgment obtained,
82 under this section shall be deposited in the Consumer Protection Education and Training Fund
83 created by Section 13-2-8.

Legislative Review Note
as of 12-9-05 2:30 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel