

SENATE BILL 542

E4

3lr2888
CF HB 775

By: **The President (By Request – Office of the Attorney General)**

Introduced and read first time: February 3, 2023

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 9, 2023

CHAPTER _____

1 AN ACT concerning

2 **Public Safety – Emergency Management – Consumer Protections Against Price**
3 **Gouging**

4 FOR the purpose of prohibiting a person from selling an essential good or service for more
5 than a certain increase in price during and for a certain time after a certain state of
6 emergency; requiring the Secretary of State to establish an electronic notification
7 system by which a person may register to receive certain information; and generally
8 relating to emergency management and consumer protections.

9 BY repealing and reenacting, with amendments,

10 Article – Commercial Law

11 Section 13–301(14)(xxxv)

12 Annotated Code of Maryland

13 (2013 Replacement Volume and 2022 Supplement)

14 BY repealing and reenacting, without amendments,

15 Article – Commercial Law

16 Section 13–301(14)(xxxvi)

17 Annotated Code of Maryland

18 (2013 Replacement Volume and 2022 Supplement)

19 BY adding to

20 Article – Commercial Law

21 Section 13–301(14)(xxxvii)

22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2013 Replacement Volume and 2022 Supplement)

2 BY adding to

3 Article – Public Safety

4 Section 14–1301 through 14–1304 to be under the new subtitle “Subtitle 13.
5 Essential Goods and Services”

6 Annotated Code of Maryland

7 (2022 Replacement Volume)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
9 That the Laws of Maryland read as follows:

10 Article – Commercial Law

11 13–301.

12 Unfair, abusive, or deceptive trade practices include any:

13 (14) Violation of a provision of:

14 (xxxv) Section 11–210 of the Education Article; [or]

15 (xxxvi) Title 14, Subtitle 44 of this article; or

16 (xxxvii) TITLE 14, SUBTITLE 13 OF THE PUBLIC SAFETY

17 ARTICLE; OR

18 Article – Public Safety

19 SUBTITLE 13. ESSENTIAL GOODS AND SERVICES.

20 14–1301.

21 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (B) ~~UNLESS OTHERWISE PROVIDED BY THE GOVERNOR IN A DECLARATION~~
24 ~~OF STATE OF EMERGENCY OR BY EXECUTIVE ORDER, “ESSENTIAL GOODS AND~~
25 ~~SERVICES” INCLUDES:~~

26 ~~(1) FOOD;~~

27 ~~(2) FUEL;~~

28 ~~(3) WATER AND ICE;~~

- 1 ~~(4)~~ ~~MEDICINE;~~
- 2 ~~(5)~~ ~~MEDICAL SUPPLIES AND EQUIPMENT;~~
- 3 ~~(6)~~ ~~CLEANING PRODUCTS;~~
- 4 ~~(7)~~ ~~BUILDING SUPPLIES AND EQUIPMENT;~~
- 5 ~~(8)~~ ~~ENERGY SOURCES;~~
- 6 ~~(9)~~ ~~STORAGE SPACE;~~
- 7 ~~(10)~~ ~~COMMUNICATION AND INTERNET SERVICES;~~
- 8 ~~(11)~~ ~~ACCOMMODATIONS AND LODGING; AND~~
- 9 ~~(12)~~ ~~ANY OTHER GOODS OR SERVICES DESIGNATED AS ESSENTIAL BY~~
 10 ~~THE GOVERNOR.~~

11 ~~(c)~~ "PRICE" MEANS:

- 12 (1) FOR ESSENTIAL SERVICES, RETAIL PRICE; OR
- 13 (2) FOR ESSENTIAL GOODS, RETAIL OR WHOLESALE PRICE.

14 ~~(D)~~ (C) "REPLACEMENT COSTS" MEANS:

- 15 (1) ACQUISITION COSTS;
- 16 (2) COSTS THAT ARE A RESULT OF A CONTRACT IN WHICH THE
 17 FORMULA REFERENCES PUBLISHED MARKET PRICES; OR
- 18 (3) THE ACTUAL ANTICIPATED COSTS OF REPLACING AN ESSENTIAL
 19 GOOD OR SERVICE OFFERED FOR SALE, BASED ON DOCUMENTED INFORMATION
 20 AVAILABLE AT THE TIME OF THE INCREASE IN PRICE.

21 ~~(E)~~ (D) "STATE OF EMERGENCY" MEANS A STATE OF EMERGENCY
 22 DECLARED BY THE GOVERNOR UNDER § 14-107 OF THIS TITLE.

23 14-1302.

24 (A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, DURING A
 25 STATE OF EMERGENCY, IN THE GEOGRAPHIC AREA COVERED BY THE STATE OF
 26 EMERGENCY DECLARATION, A PERSON MAY NOT SELL OR OFFER TO SELL ~~ESSENTIAL~~
 27 GOODS OR SERVICES DESIGNATED AS ESSENTIAL BY THE GOVERNOR FOR A PRICE

1 OF ~~10%~~ 15% OR MORE ABOVE THE HIGHEST PRICE AT WHICH THE PERSON MADE
2 ACTUAL SALES OR RENTALS OF THOSE ESSENTIAL GOODS OR SERVICES BETWEEN:

3 (1) 60 DAYS BEFORE THE STATE OF EMERGENCY DECLARATION; AND

4 (2) 4 DAYS BEFORE THE STATE OF EMERGENCY.

5 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, DURING A
6 STATE OF EMERGENCY AND FOR THE 90 DAYS FOLLOWING THE END OF THE STATE
7 OF EMERGENCY, A PERSON MAY NOT SELL OR OFFER TO SELL REPAIR OR
8 RECONSTRUCTION SERVICES USED FOR EMERGENCY CLEANUP FOR A PRICE OF ~~10%~~
9 15% OR MORE ABOVE THE AVERAGE PRICE CHARGED BY THE PERSON FOR THOSE
10 SERVICES DURING THE 30 DAYS BEFORE THE STATE OF EMERGENCY.

11 (C) A PERSON MAY INCREASE A PRICE BY ~~10%~~ 15% OR MORE FOR GOODS
12 AND SERVICES IF THE PERSON CAN PROVE THAT:

13 (1) THE PRICE INCREASE IS DIRECTLY ATTRIBUTABLE TO
14 ADDITIONAL COSTS IMPOSED ON THE PERSON BY THE SUPPLIER OF GOODS,
15 INCLUDING REPLACEMENT COSTS, COSTS OF CREDIT, AND CREDIT CARD
16 PROCESSING COSTS; ~~OR~~

17 (2) THE PRICE INCREASE IS DIRECTLY ATTRIBUTABLE TO
18 ADDITIONAL COSTS FOR LABOR OR MATERIALS USED TO PROVIDE THE SERVICE OR
19 PRODUCE THE GOODS, INCLUDING COSTS TO REPAIR ANY DAMAGE RELATING TO
20 THE STATE OF ~~EMERGENCY~~ EMERGENCY; OR

21 (3) THE PRICE INCREASE IS CONSISTENT WITH SEASONAL PRICES
22 CHARGED BY THE PERSON BASED ON HISTORICAL DATA SHOWING PRICES CHARGED
23 DURING THE SEASON OVER THE PAST 3 YEARS.

24 (D) AT LEAST 20 DAYS BEFORE AN ACTION IS FILED UNDER § 14-1303 OF
25 THIS SUBTITLE, THE OFFICE OF THE ATTORNEY GENERAL SHALL PROVIDE A
26 PERSON WHOSE ACTIONS MAY BE IN VIOLATION OF THIS SECTION NOTICE OF THE
27 GENERAL RELIEF SOUGHT BY THE OFFICE OF THE ATTORNEY GENERAL TO GIVE
28 THE PERSON AN OPPORTUNITY TO PRESENT EVIDENCE THAT THE PRICE INCREASE
29 WAS IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.

30 14-1303.

31 (A) A SALE OR OFFER FOR SALE OF ESSENTIAL GOODS AND SERVICES IN
32 VIOLATION OF § 14-1302 OF THIS SUBTITLE IS:

1 (1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE, AS
2 DEFINED UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND

3 (2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS OF
4 TITLE 13 OF THE COMMERCIAL LAW ARTICLE, EXCEPT FOR THE CRIMINAL
5 PENALTIES IN § 13-411 OF THE COMMERCIAL LAW ARTICLE.

6 ~~(B) A PERSON WHO SUFFERS INJURY OR LOSS AS A RESULT OF A VIOLATION~~
7 ~~OF § 14-1302 OF THIS SUBTITLE MAY BRING AN ACTION UNDER §~~
8 ~~13-408 OF THE COMMERCIAL LAW ARTICLE REGARDLESS OF WHETHER THE~~
9 ~~PERSON IS A CONSUMER, AS DEFINED IN § 13-101 OF THE COMMERCIAL LAW~~
10 ~~ARTICLE.~~

11 14-1304.

12 THE SECRETARY OF STATE SHALL ESTABLISH A SYSTEM BY WHICH A PERSON
13 MAY REGISTER TO RECEIVE ELECTRONIC NOTIFICATIONS STATING:

14 (1) THAT A STATE OF EMERGENCY HAS BEEN DECLARED AND AN
15 EXECUTIVE ORDER HAS BEEN ISSUED;

16 (2) THAT THE PROVISIONS OF THIS SUBTITLE ARE IN EFFECT; AND

17 (3) THE CATEGORIES OF ESSENTIAL GOODS AND SERVICES OR
18 INDIVIDUAL ESSENTIAL GOODS AND SERVICES THAT ARE COVERED BY THE
19 EXECUTIVE ORDER.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.