
OLR Bill Analysis

sHB 5307 (as amended by House "A")*

AN ACT CONCERNING PRICE GOUGING.

SUMMARY

This bill defines price gouging during specified declared emergencies as charging an unconscionably excessive price (i.e., a price that is grossly different from the price before the emergency and that is not the result of additional acquisition costs). It also expands the price gouging law's application beyond the retail sale of consumer goods to other supply chain transactions (e.g., wholesale) and to rental and lease transactions.

The bill correspondingly extends existing law's price gouging enforcement provisions to the expanded definition. By law, price gouging law violators are subject to a fine of up to \$99 and deemed to have committed an unfair trade or deceptive practice (see BACKGROUND). The bill specifies that the attorney general has exclusive authority to enforce the bill's provisions.

EFFECTIVE DATE: October 1, 2021

*House Amendment "A" adds the provision making the attorney general responsible for enforcement and clarifies the definition of "unconscionably excessive price."

APPLICABILITY TO ADDITIONAL TRANSACTIONS

Under current law, the price gouging law only applies to retail sales; it does not cover wholesale or supply chain transactions. The bill extends the prohibition on price gouging to manufacturers, suppliers, wholesalers, and distributors (referred to as "sellers").

The bill also extends the prohibition on price gouging to rental or lease transactions; currently, it applies only to sales.

PRICE GOUGING DEFINITION

Current law prohibits sellers from increasing the price of any item sold at retail in a location subject to certain emergency declarations while the declaration is in effect, except if the seller can justify doing so as a price fluctuation that occurs during the normal course of business. The bill replaces this general provision with more specific provisions defining what constitutes prohibited price gouging behavior. The bill's prohibition applies during the same emergency declarations as current law (which the bill calls "precipitating events," see BACKGROUND).

Under the bill, price gouging is selling, renting, or leasing an item, or offering to do so, at an amount that represents an "unconscionably excessive price." An "unconscionably excessive price" means that the amount charged:

1. represents a gross disparity between (A) the price for which an item was sold, rented, or leased immediately prior to the precipitating event and when the precipitating event was reasonably anticipated or (B) the price for which such item is being sold, rented, or leased during the period in which such precipitating event is in effect and
2. is not attributable to additional costs the seller incurred in connection with the item's sale, rental, or lease.

BACKGROUND

Legislative History

The House referred the bill (File 3) to the Judiciary Committee, which reported a substitute that eliminates the provision specifying that the venue for the Connecticut Unfair Trade Practices Act (CUTPA) actions brought on the state's behalf is the Hartford judicial district.

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, 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 restraining order violation.

Precipitating Events

Precipitating events are:

1. emergencies declared by the governor immediately before or during a serious disaster or enemy attack, sabotage, or other hostile action within Connecticut or a neighboring state (CGS § 28-1(7));
2. statewide or regional transportation emergencies declared by the governor during a substantial disruption in the operation of a major transportation facility or service which endangers public health, safety, or welfare (CGS § 3-6b(a)); and
3. major disaster or emergency declarations issued by the U.S. President.

Other laws regulate price gouging during (1) a declared severe weather event emergency (CGS § 42-235) or supply emergency (CGS §§ 42-231 & 42-232) or (2) an announced abnormal energy resource market disruption (CGS § 42-234).

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 19 Nay 0 (02/02/2021)

Judiciary Committee

Joint Favorable Substitute

Yea 26 Nay 13 (04/20/2021)

Appropriations Committee

Joint Favorable

Yea 34 Nay 15 (05/10/2021)