



House of Representatives

General Assembly

File No. 3

January Session, 2021

Substitute House Bill No. 5307

House of Representatives, February 25, 2021

The Committee on General Law reported through REP. D'AGOSTINO of the 91st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING PRICE GOUGING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42-230 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2021*):

3 (a) As used in this section:

4 (1) "Seller" means a person, firm or corporation, including, but not
5 limited to, a manufacturer, supplier, wholesaler, distributor or retailer;

6 (2) "Precipitating event" means a disaster emergency declaration
7 issued by the Governor pursuant to chapter 517, a transportation
8 emergency declaration issued by the Governor pursuant to section 3-6b
9 or any major disaster or emergency declaration issued by the President
10 of the United States; and

11 (3) "Unconscionably excessive price" means (A) the amount charged
12 by the seller represents a gross disparity between (i) the price for which
13 an item was sold, rented or leased immediately prior to the precipitating

14 event and when the precipitating event was reasonably anticipated, and
 15 (ii) the price for which such item is being sold, rented or leased during
 16 the period in which such precipitating event is in effect, and (B) the
 17 amount charged by the seller is not attributable to additional costs
 18 incurred by the seller in connection with the sale, rental or lease of an
 19 item.

20 (b) No [person, firm or corporation] seller shall [increase the price of]
 21 sell, rent or lease, or offer to sell, rent or lease any item [which such
 22 person, firm or corporation sells or offers for sale at retail] within the
 23 chain of distribution for an amount that represents an unconscionably
 24 excessive price at any location in an area which is the subject of any
 25 [disaster emergency declaration issued by the Governor pursuant to
 26 chapter 517, any transportation emergency declaration issued by the
 27 Governor pursuant to section 3-6b or any major disaster or emergency
 28 declaration issued by the President of the United States, until the period
 29 of emergency or disaster] precipitating event until the precipitating
 30 event is declared by the Governor or the President to be at an end.
 31 [Nothing in this section shall prohibit the fluctuation in the price of
 32 items sold at retail which occurs during the normal course of business.]
 33 Any person, firm or corporation which violates any provision of this
 34 section shall be fined not more than ninety-nine dollars. Any violation
 35 of the provisions of this section shall be deemed an unfair or deceptive
 36 trade practice under subsection (a) of section 42-110b and if an
 37 enforcement action is brought on behalf of the state, such action shall be
 38 brought in the judicial district of Hartford.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2021	42-230

Statement of Legislative Commissioners:
 Subdivision (3) of subsection (a) was changed for clarity.

GL *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill defines price gouging during emergencies and expands the application of the existing price gouging law beyond the retail sale of consumer goods to wholesale supply chain transactions, rental, and lease transactions. Additionally, it extends the Attorney General's enforcement of existing law's enforcement provisions to the broadened price gouging definition.

Although the bill expands the scope of current price gouging provisions, including a \$99 fine for violations, it is not anticipated to result in a revenue gain to the state.¹

The Out Years

State Impact: None

Municipal Impact: None

¹ The Attorney General responded to 750 individual price gouging complaints in 2020, resulting in zero enforcement actions.

OLR Bill Analysis

sHB 5307

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 application of the price gouging law 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 enforcement provisions to the expanded price gouging definition. By law, violators of the price gouging law 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 venue for actions brought on the state's behalf is the Hartford judicial district.

EFFECTIVE DATE: October 1, 2021

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 and (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

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 violation of a restraining order.

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 the 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)