

## Post-Disaster Anti-Price Gouging Act

§ 59.1-525. Title.

This chapter may be cited as the Virginia Post-Disaster Anti-Price Gouging Act.

(2004, cc. [798](#), [817](#).)

§ 59.1-526. Definitions.

As used in this chapter:

"Disaster" means any "disaster," "emergency," or "major disaster," as those terms are used and defined in § [44-146.16](#), that results in the declaration of a state of emergency by the Governor or the President of the United States.

"Goods," "services," and "supplier" have the same meanings as are set forth for those terms in § [59.1-198](#).

"Necessary goods and services" means any necessary good or service for which consumer demand does, or is likely to, increase as a consequence of the disaster, and includes, but is not limited to, water, ice, consumer food items or supplies, property or services for emergency cleanup, emergency supplies, communication supplies and services, medical supplies and services, home heating fuel, building materials and services, tree removal supplies and services, freight, storage services, housing, lodging, transportation, and motor fuels.

"Time of disaster" means the shorter of (i) the period of time when a state of emergency declared by the Governor or the President of the United States as the result of a disaster, emergency, or major disaster, as those terms are used and defined in § [44-146.16](#), is in effect or (ii) 30 days after the occurrence of the disaster, emergency, or major disaster that resulted in the declaration of the state of emergency; however, if the state of emergency is extended or renewed within 30 days after such an occurrence, then such period shall be extended to include the 30 days following the date the state of emergency was extended or renewed.

(2004, cc. [798](#), [817](#); 2006, c. [362](#); 2008, cc. [121](#), [157](#).)

§ 59.1-527. Prohibitions.

During any time of disaster, it shall be unlawful for any supplier to sell, lease, or license, or to offer to sell, lease, or license, any necessary goods and services at an unconscionable price within the area for which the state of emergency is declared. Actual sales at the increased price shall not be required for the increase to be considered unconscionable. In determining whether a price increase is unconscionable, the following shall be considered:

1. Whether the price charged by the supplier grossly exceeded the price charged by the supplier for the same or similar goods or services during the 10 days immediately prior to the time of

disaster, provided that, with respect to any supplier who was offering a good or service at a reduced price immediately prior to the time of disaster, the price at which the supplier usually offers the good or service shall be used as the benchmark for these purposes;

2. Whether the price charged by the supplier grossly exceeded the price at which the same or similar goods or services were readily obtainable by consumers in the trade area during the 10 days immediately prior to the time of disaster;

3. Whether the increase in the amount charged by the supplier was attributable solely to additional costs incurred by the supplier in connection with the sale of the goods or services, including additional costs imposed by the supplier's source. Proof that the supplier incurred such additional costs during the time of disaster shall be prima facie evidence that the price increase was not unconscionable; and

4. Whether the increase in the amount charged by the supplier was attributable solely to a regular seasonal or holiday adjustment in the price charged for the good or service. Proof that the supplier regularly increased the price for a particular good or service during portions of the period covered by the time of disaster would be prima facie evidence that the price increase was not unconscionable during those periods.

(2004, cc. [798](#), [817](#).)

#### § 59.1-528. Complaint investigations.

In the event that the Attorney General, any attorney for the Commonwealth, or the attorney for any county, city, or town investigates a complaint for a violation of § [59.1-527](#) and determines that the supplier has not violated the section, and if the supplier requests, the Attorney General, any attorney for the Commonwealth, or the attorney for any county, city, or town shall promptly issue a signed statement indicating that a violation of § [59.1-527](#) has not been found. Subject to the disclosures allowed by this section, it shall be the duty of the Attorney General, the attorney for the Commonwealth, or the attorney for any city, county or town, or their designees, that investigates any complaint for violation of § [59.1-527](#) to maintain the confidentiality of all evidence, testimony, documents, or other results of such investigations, including the names of the complainant, and the individual, corporation or other entity that is the subject of the investigation. Nothing herein contained shall be construed to prevent the presentation and disclosure of any such investigative evidence in an action or proceeding brought under this chapter.

(2004, cc. [798](#), [817](#).)

#### § 59.1-529. Enforcement; penalties.

Any violation of this chapter shall constitute a prohibited practice under the provisions of § [59.1-200](#) and shall be subject to any and all of the enforcement provisions of Chapter 17 (§ [59.1-196](#) et seq.) of this title, except that § [59.1-204](#) notwithstanding, nothing in this chapter shall create a private cause of action in favor of any person aggrieved by a violation of this chapter.

(2004, cc. [798](#), [817](#).)

§ 59.1-529.1. Emergency orders; penalties.

A. Upon finding that during a time of disaster a supplier is selling, leasing, or licensing, or offering to sell, lease, or license, a necessary good or service within the area for which the state of emergency is declared at such an unconscionable price that such selling, leasing, or licensing, or offering to sell, lease, or license presents an imminent and substantial danger of endangering the public welfare by creating public panic, the Governor is authorized to issue for a period not to exceed 30 days, without hearing, an emergency order directing the supplier to reduce the price of the necessary good or service to the prevailing price in the local market. The confidentiality of all evidence, testimony, documents, or other results of investigations leading to issuance of the emergency order, including the names of the complainant and the person that is the subject of the investigation, shall be maintained.

B. The supplier to whom such emergency order is issued shall be notified by certified mail, return receipt requested, sent to the last known address of the supplier, and by personal delivery by an agent of the Governor.

C. If the supplier who has been issued such an emergency order is not complying with the terms thereof, the Governor shall notify the Attorney General, who shall immediately investigate as provided for under this chapter.

(2006, c. [451](#).)