

FIRST REGULAR SESSION

# HOUSE BILL NO. 241

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BRUNS (Sponsor), FISHER, SCHAAF, McGHEE, DUSENBERG, RUESTMAN, SANDER, WILSON (130), WELLS AND BIVINS (Co-sponsors).

Read 1st time January 4, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

0189L.011

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### AN ACT

To amend chapter 407, RSMo, by adding thereto two new sections relating to price gouging during emergencies.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 407, RSMo, is amended by adding thereto two new sections, to be  
2 known as sections 407.725 and 407.727, to read as follows:

**407.725. For the purposes of sections 407.725 to 407.727, the following terms mean:**

2 (1) "Advertisement", the attempt by publication, dissemination, circulation, or any  
3 other means to induce, directly or indirectly, any person to purchase, rent, or lease any  
4 necessity;

5 (2) "Consumer", any person who purchases, may purchase, or is solicited for  
6 purchase of merchandise;

7 (3) "Excessive price", a price that exceeds by ten percent or greater the seller's  
8 retail price immediately prior to the onset of any conditions that prompt a declaration of  
9 a state of emergency;

10 (4) "Necessity", includes any materials and services related to, but not limited to,  
11 food, fuel, water, energy, medical treatment, construction, repair, and transportation;

12 (5) "Person", shall have the meaning provided in section 407.010;

13 (6) "Sale", any sale, rental, lease, offer for sale, rental or lease, or attempt to sell,  
14 rent, or lease any necessity;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15           (7) "State of emergency", a temporary condition triggered by a declaration of  
16 emergency, including but not limited to an emergency declared solely for the purposes of  
17 this section by the governor which may encompass all or part of this state.

**407.727. 1. Except as provided in subsection 2 of this section, any person charging  
2 an excessive price for any necessity in connection with the advertisement or sale of that  
3 necessity during a state of emergency commits price gouging.**

**2. Any person shall have an affirmative defense for price gouging if that person  
5 produces written documentation that an excessive price for a necessity was charged due  
6 to:**

**(1) An increase in the cost to the person to obtain the necessity; and**

**(2) That such increase is not within that person's control.**

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10 Upon request of the attorney general or local prosecuting attorney, the person shall  
11 provide written documentation within twenty-four hours after receiving the request.  
12 Failure to provide written documentation within twenty-four hours of request for good  
13 cause shall not be absolute bar to raising the affirmative defense.

14           **3. Any person who engages in price gouging, as described in subsection 1 of this  
15 section, is liable for three times the amount that the person unfairly received for each  
16 transaction.**

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