ASSEMBLY, No. 3837

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:
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District 7 (Burlington)
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District 31 (Hudson)
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SYNOPSIS

Prohibits excessive price increases during period of declared abnormal market disruption.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/8/2020)

AN ACT concerning excessive price increases and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The Legislature finds and declares that periods of abnormal market disruption may occur in the State in the wake of natural or man-made emergencies, disasters, and outbreaks, taking place nationwide and globally. In these situations, conditions within the geographical boundaries of the State may not warrant a declaration of a state of emergency; however, New Jersey consumers, including individuals, businesses, hospitals, schools, and local government units may be harmed significantly by rapidly increasing prices for certain consumer goods due to an emergency, disaster, or outbreak occurring elsewhere. The legislature recognizes that the cost of merchandise is best left to the marketplace under ordinary conditions, but finds that the public interest requires certain excessive and unjustified price increases to be prohibited during declared periods of abnormal market disruption.

2. As used in P.L. , c. (C.) (pending before the Legislature as this bill):

"Abnormal market disruption" means a significant disruption to the production, distribution, supply, sale, or availability of a consumer good that:

(1) is caused by an event such as a natural or man-made emergency, disaster, or outbreak occurring in or out of the State; and

(2) causes ordinary competitive market forces to cease to function normally.

"Excessive price increase" means a price that is excessive as compared to the price at which the consumer good was sold or offered for sale by the seller in the usual course of business immediately prior to the abnormal market disruption. A price shall be deemed excessive if:

(1) the price exceeds by more than 10 percent the price at which the good was sold or offered for sale by the seller in the usual course of business immediately prior to the declaration of an abnormal market disruption, unless the price charged by the seller is attributable to additional costs imposed by the seller's supplier or other costs of providing the good during the abnormal market disruption; or

(2) the increase in price is attributable to additional costs imposed by the seller's supplier or additional costs of providing the good during the abnormal market disruption, but the price represents an increase of more than 10 percent in the amount of markup from cost, compared to the markup customarily applied by

the seller in the usual course of business immediately prior to the abnormal market disruption.

"Outbreak" means any unusual occurrence of disease or any disease above background or endemic levels.

3. a. The Governor is authorized to declare an abnormal market disruption as defined in section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) when the Governor deems it necessary to protect the public interest from the harm of excessive and unjustified price increases.

b. Upon issuance of a declaration of an abnormal market disruption as provided in subsection a. of this section, the Division of Consumer Affairs in the Department of Law and Public Safety shall provide notice to consumers of the declaration on its Internet website. The notice shall be displayed prominently for the duration of time for which the declaration is in effect. The notice shall include, but not be limited to:

(1) an explanation of an abnormal market disruption;

(2) a description of the prohibitions in force during a declared abnormal market disruption;

(3) a description of the rights of consumers pursuant to P.L.1960, c.39 (C.56:8-1 et seq.); and

(4) publication of a toll-free telephone number consumers may call to receive information.

4. It shall be an unlawful practice for any person to sell or offer to sell within 30 days after the declaration of an abnormal market disruption, or for any other period of time as the Governor may specify in the declaration, any consumer good which is consumed or used to preserve, protect, or sustain the life, health, safety, or comfort of persons or their property for a price that constitutes an excessive price increase as defined in section 2 of P.L. , c. (C.) (pending before the Legislature as this bill). The Governor may by executive order extend the period during which this prohibition remains in force.

5. This act shall take effect immediately.

STATEMENT

This bill makes it an unlawful practice for any person to sell or offer to sell any consumer good consumed or used to preserve, protect, or sustain the life, health, safety, or comfort of persons or their property for a price that constitutes an excessive price increase following the declaration of an abnormal market disruption by the Governor.

Current law prevents excessive price increases during a declared state of emergency in the State. This bill would expand the protections afforded to consumers during periods of abnormal market disruption that may occur in the State in the wake of natural or man-made emergencies, disasters, and outbreaks, taking place nationwide and globally. In these situations, conditions within the geographical boundaries of the State may not warrant a declaration of a state of emergency; however, New Jersey consumers, including individuals, businesses, hospitals, schools, and local government units could be harmed significantly by rapidly increasing prices for certain consumer goods. The Legislature recognizes that the cost of merchandise is best left to the marketplace under ordinary conditions, but finds that the public interest requires certain excessive and unjustified price increases to be prohibited during declared periods of abnormal market disruption.

Under the provisions of the bill, it would be an unlawful practice for any person to sell or offer to sell within 30 days after the declaration of an abnormal market disruption, or for any other period of time as the Governor may specify in the declaration, any consumer good which is consumed or used to preserve, protect, or sustain the life, health, safety, or comfort of persons or their property for a price that constitutes an excessive price increase. The bill defines an "excessive price increase" as a price that is excessive as compared to the price at which the consumer good was sold or offered for sale by the seller in the usual course of business immediately prior to the abnormal market disruption. Under the definition, the price would be deemed excessive:

(1) if it exceeds by more than 10 percent the price at which the good was sold or offered for sale by the seller in the usual course of business immediately prior to the declaration of an abnormal market disruption, unless the price charged by the seller is attributable to additional costs imposed by the seller's supplier or other costs of providing the good during the abnormal market disruption; or

(2) if the increase is attributable to additional costs imposed by the seller's supplier or additional costs of providing the good during the abnormal market disruption, but the price represents an increase of more than 10 percent in the amount of markup from cost, compared to the markup customarily applied by the seller in the usual course of business immediately prior to the abnormal market disruption.

Additionally, under the bill, upon issuance of a declaration of an abnormal market disruption, the Division of Consumer Affairs in the Department of Law and Public Safety would be required to provide notice to consumers on its Internet website. The notice would be required to be displayed prominently for the duration of time for which the declaration is in effect. The notice would include, but not be limited to: (1) an explanation of an abnormal market disruption; (2) a description of the prohibitions in force

during a declared abnormal market disruption; (3) a description of the rights of consumers pursuant to the consumer fraud act; and (4) publication of a toll-free telephone number consumers may call to receive information.

An unlawful practice under the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), is punishable by a monetary penalty of not more than $10,000 for a first offense and not more than $20,000 for any subsequent offense. In addition, a violation can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages, and the awarding of treble damages and costs to the injured.