

SENATE, No. 2560

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 8, 2020

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning excessive price increases and supplementing
2 P.L.1960, c.39 (C.56:8-1 et seq.).
3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:
6

7 1. The Legislature finds and declares that periods of abnormal
8 market disruption may occur in the State in the wake of natural or
9 man-made emergencies, disasters, and outbreaks, taking place
10 nationwide and globally. In these situations, conditions within the
11 geographical boundaries of the State may not warrant a declaration
12 of a state of emergency; however, New Jersey consumers, including
13 individuals, businesses, hospitals, schools, and local government
14 units may be harmed significantly by rapidly increasing prices for
15 certain consumer goods due to an emergency, disaster, or outbreak
16 occurring elsewhere. The legislature recognizes that the cost of
17 merchandise is best left to the marketplace under ordinary
18 conditions, but finds that the public interest requires certain
19 excessive and unjustified price increases to be prohibited during
20 declared periods of abnormal market disruption.
21

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

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

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

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

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

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

44 (2) the increase in price is attributable to additional costs
45 imposed by the seller's supplier or additional costs of providing the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 good during the abnormal market disruption, but the price
2 represents an increase of more than 10 percent in the amount of
3 markup from cost, compared to the markup customarily applied by
4 the seller in the usual course of business immediately prior to the
5 abnormal market disruption.

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

8
9 3. a. The Governor is authorized to declare an abnormal
10 market disruption as defined in section 2 of P.L. , c. (C.)
11 (pending before the Legislature as this bill) when the Governor
12 deems it necessary to protect the public interest from the harm of
13 excessive and unjustified price increases.

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

21 (1) an explanation of an abnormal market disruption;

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

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

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

28
29 4. It shall be an unlawful practice for any person to sell or offer
30 to sell within 30 days after the declaration of an abnormal market
31 disruption, or for any other period of time as the Governor may
32 specify in the declaration, any consumer good which is consumed
33 or used to preserve, protect, or sustain the life, health, safety, or
34 comfort of persons or their property for a price that constitutes an
35 excessive price increase as defined in section 2 of P.L. , c. (C.)
36 (pending before the Legislature as this bill). The Governor may by
37 executive order extend the period during which this prohibition
38 remains in force.

39
40 5. This act shall take effect immediately.

41 42 43 STATEMENT

44
45 This bill makes it an unlawful practice for any person to sell or
46 offer to sell any consumer good consumed or used to preserve,
47 protect, or sustain the life, health, safety, or comfort of persons or
48 their property for a price that constitutes an excessive price increase

1 following the declaration of an abnormal market disruption by the
2 Governor.

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

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

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

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

43 Additionally, under the bill, upon issuance of a declaration of an
44 abnormal market disruption, the Division of Consumer Affairs in
45 the Department of Law and Public Safety would be required to
46 provide notice to consumers on its Internet website. The notice
47 would be required to be displayed prominently for the duration of
48 time for which the declaration is in effect. The notice would

1 include, but not be limited to: (1) an explanation of an abnormal
2 market disruption; (2) a description of the prohibitions in force
3 during a declared abnormal market disruption; (3) a description of
4 the rights of consumers pursuant to the consumer fraud act; and (4)
5 publication of a toll-free telephone number consumers may call to
6 receive information.

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