SENATE DOCKET, NO. FILED ON: 1/12/2009

**SENATE . . . . . . . . . . . . . . No.**

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The Commonwealth of Massachusetts

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PRESENTED BY:

**Candaras, Gale (SEN)**

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General
 Court assembled:*

 The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to prohibit price gouging during states of emergency.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

PETITION OF:

|  |  |
| --- | --- |
| Name: | District/Address: |
| Gale D. Candaras | First Hampden and Hampshire |
| Stephen L. DiNatale | 3rd Worcester |
| Richard T. Moore | Worcester and Norfolk |
| Denise Provost | 27th Middlesex |

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S01375 OF 2007-2008.]

The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**

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An Act to prohibit price gouging during states of emergency.

 *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Chapter 23, Section 9H of the General Laws is hereby amended by adding at the end thereof the following: --

As used in this section the following words shall have the following meanings: --

“Commodity” means goods, services, materials, merchandise, supplies, equipment, resources, or other articles of commerce, and includes, without limitation, food, water, ice, chemicals, petroleum products, and lumber essential for consumption or use as a direct result of a declared state of emergency.

“Unconscionable price” an amount charged which represents a gross disparity between the price of the commodity or rental or lease of a dwelling unit, including a motel or hotel unit or other temporary lodging, or self-storage facility that is the subject of the offer or transaction and the average price at which that commodity or dwelling unit, including a motel or hotel unit or other temporary lodging, or self-storage facility was rented, leased, sold, or offered for rent or sale in the usual course of business during the 30 days immediately before a declaration of a state of emergency, and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of the dwelling unit, including a motel or hotel unit or other temporary lodging, or self-storage facility, or regional, national, or international market trends; or grossly exceeds the average price at which the same or similar commodity, dwelling unit, including a motel or hotel unit or other temporary lodging, or self-storage facility was readily obtainable in the trade area during the 30 days immediately before a declaration of a state of emergency. Such price shall not include a price during that period set as a result of a bona fide manufacturer’s or suppliers limited discount or rebate; provided however that the increase in the amount charged is not with rental or sale of the commodity or rental or lease of the dwelling unit, including a motel or hotel unit or other temporary lodging, or self-storage facility, or as the result of regional, national, or international market trends, or is attributable to additional costs in connection with the disaster, including replacement costs imposed by the vendors source.

Whenever the governor shall determine that an emergency exists in respect to food or fuel or any other common necessity of life, including the providing of shelter, it shall be a violation of this section for a person or his agent or employee to rent or sell or offer to rent or sell a commodity at an unconscionable price within the area for which the state of emergency is declared; or impose unconscionable prices for the rental or lease of a dwelling unit, including a motel or hotel unit or other temporary lodging, or self-storage facility within the area for which the state of emergency is declared. This prohibition remains in effect until the declaration expires or is terminated. Upon a declaration of a state of disaster by the President, in which the disaster area includes all or a portion of the commonwealth it is unlawful and a violation of this article for a person or his agent or employee in this state to: rent or sell or offer to rent or sell a commodity at an unconscionable price within the area for which the state of disaster is declared; or impose unconscionable prices for the rental or lease of a dwelling unit, including a motel or hotel unit or other temporary lodging, or self-storage facility within the area for which the state of disaster is declared. This prohibition remains in effect until ten days after the declaration expires or is terminated. A price increase approved by an appropriate government agency is not a violation of this section. This section does not apply to sales by growers, producers, or processors of raw or processed food products, except for retail sales of those products to the ultimate consumer within the area of the declared state of emergency or disaster.

A violation of this section shall be punished by a fine of not more than $5,000 or by imprisonment for not more that 2½ years or both.