First Regular Session Seventy-fifth General Assembly STATE OF COLORADO

PREAMENDED

This Unofficial Version Includes Committee Amendments Not Yet Adopted on Second Reading

LLS NO. 25-0501.01 Jennifer Berman x3286

HOUSE BILL 25-1010

HOUSE SPONSORSHIP

Zokaie and Brown, Clifford, Garcia, Mabrey, Rutinel, Smith, Stewart R., Velasco

SENATE SPONSORSHIP

Weissman, Gonzales J., Jaquez Lewis

House Committees Business Affairs & Labor **Senate Committees**

A BILL FOR AN ACT

101 **CONCERNING A PROHIBITION AGAINST ENGAGING IN PRICE GOUGING.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <u>http://leg.colorado.gov.</u>)

Under current law, a person engages in an unfair and unconscionable act or practice in violation of consumer protection laws (unfair act) if the person engages in price gouging during a declared disaster. The bill adds engaging in price gouging in the sale of necessities as an unfair act and creates a presumption that, if the price of a necessity is increased by 10% or more above the average price that the necessity cost during the 90 days preceding the price increase, the price increase amounts to price gouging. The bill also defines "necessities" as goods or services that are necessary for the health, safety, and welfare of consumers or of the general public.

1	Be it enacted by the General Assembly of the State of Colorado:
2	SECTION 1. In Colorado Revised Statutes, 6-1-730, amend (1)
3	introductory portion, (1)(a)(I), (2) introductory portion, (3), (5)
4	introductory portion, (5)(a), and (5)(k); and add (2.5), (3.5), (4.5),
5	(5)(a.5), (5)(l.5), and (5)(l.7) as follows:
6	6-1-730. Price gouging prohibited - deceptive trade practice -
7	rules - legislative declaration - definitions. (1) The general assembly:
8	hereby:
9	(a) Finds and determines that:
10	(I) Under ordinary conditions, the pricing of consumer goods and
11	services generally is best left to the marketplace; except that, when a
12	declared disaster results in OR abnormal MARKET disruptions of the
13	market RESULT IN PRICE INCREASES OR WHEN A SELLER UNFAIRLY OR
14	UNCONSCIONABLY RAISES THE PRICE OF NECESSITIES, the public interest
15	requires that any unfair and unconscionable increase in the price of
16	consumer goods or services be discouraged; and
17	(2) A person engages in an unfair and unconscionable act or
18	practice when, DURING AN ABNORMAL MARKET DISRUPTION, THE PERSON
19	CHARGES A PRICE SO EXCESSIVE AS TO AMOUNT TO PRICE GOUGING IN THE
20	SALE OR OFFER FOR SALE OF NECESSITIES OR WHEN, during a disaster
21	period and within the designated area, the person charges a price so
22	excessive as to amount to price gouging in:
23	(2.5) A person engages in an unfair and unconscionable

24 \qquad act or practice when the person charges prices for necessities

1 THAT ARE SO EXCESSIVE AS TO AMOUNT TO PRICE GOUGING. INCREASING 2 THE PRICE OF A NECESSITY BY TEN PERCENT OR MORE ABOVE THE 3 AVERAGE PRICE THAT THE NECESSITY COST DURING THE NINETY DAYS 4 PRECEDING THE PRICE INCREASE IS PRESUMED TO BE ENGAGING IN THE 5 UNFAIR AND UNCONSCIONABLE ACT OR PRACTICE OF PRICE GOUGING. 6 (3) A price shall not be considered unreasonably excessive if the 7 seller can prove that due to the events that gave rise to the disaster 8 declaration, the price charged by the seller is directly attributable to: 9 (a) Additional costs imposed by the seller's supplier or suppliers 10 or other direct costs of providing the good or service sold or offered for 11 sale by the seller; OR 12 (b) SEASONAL PRICING. 13 (3.5) THIS SECTION DOES NOT APPLY TO: 14 (a) A SHORT-TERM RENTAL; 15 (b) A PUBLIC UTILITY REGULATED BY THE PUBLIC UTILITIES 16 COMMISSION PURSUANT TO TITLE 40; EXCEPT THAT THIS SECTION DOES 17 APPLY TO A BUSINESS THAT THE PUBLIC UTILITIES COMMISSION REGULATES 18 PURSUANT TO ARTICLE 10.1 OF TITLE 40; OR 19 (c) THE SALE OF REAL PROPERTY. (4.5) THE ATTORNEY GENERAL MAY ADOPT RULES AS NECESSARY 20 21 TO IMPLEMENT THIS SECTION. 22 (5) As used in this section, UNLESS THE CONTEXT OTHERWISE 23 **REQUIRES:** "Building materials" means lumber, construction tools, 24 (a) 25 windows, and other materials used in the repair or reconstruction of a 26 structure or other property "ABNORMAL MARKET DISRUPTION" MEANS ANY 27 CHANGE IN THE MARKET, WHETHER ACTUAL OR IMMINENTLY

1 THREATENED, THAT RESULTS FROM A DISASTER, FAILURE OR SHORTAGE OF 2 ELECTRIC POWER OR OTHER SOURCE OF ENERGY, CIVIL DISORDER, WAR, 3 TERRORIST ATTACK, MILITARY ACTION, NATIONAL OR LOCAL EMERGENCY, 4 PUBLIC HEALTH EMERGENCY, DRUG SHORTAGE, EXCESSIVE MARKET 5 CONSOLIDATION, TRADE DISRUPTION, INFLATION, OR ANY OTHER CAUSE OF 6 AN ATYPICAL DISRUPTION IN THE MARKET THAT A PERSON MAY EXPLOIT 7 TO MANIPULATE PRICES IN A MANNER THAT DOES NOT REFLECT THE BASIC 8 FORCES OF SUPPLY AND DEMAND. 9 (a.5) "BUILDING MATERIALS" MEANS LUMBER, CONSTRUCTION 10 TOOLS, WINDOWS, AND OTHER MATERIALS USED IN THE REPAIR OR 11 RECONSTRUCTION OF A STRUCTURE OR OTHER PROPERTY. 12 (k) "Necessities" means goods and services that are necessary for 13 human or animal survival during a disaster period THE HEALTH, SAFETY, 14 AND WELFARE OF CONSUMERS OR OF THE GENERAL PUBLIC. (1.5) "SEASONAL PRICING" MEANS PRICING THAT IS CONSISTENT 15 16 WITH HISTORICAL DATA SHOWING THE PRICES THAT WERE CHARGED 17 DURING THE SAME SEASON IN THE PREVIOUS THREE YEARS. 18 (1.7) "SHORT-TERM RENTAL" has the meaning set forth in section 19 30-15-401 (1)(s.5)(III). 20 SECTION 2. Act subject to petition - effective date -21 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following 22 the expiration of the ninety-day period after final adjournment of the 23 general assembly; except that, if a referendum petition is filed pursuant

to section 1 (3) of article V of the state constitution against this act or an 25 item, section, or part of this act within such period, then the act, item,

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26 section, or part will not take effect unless approved by the people at the

27 general election to be held in November 2026 and, in such case, will take

- 1 effect on the date of the official declaration of the vote thereon by the
- 2 governor.
- 3 (2) This act applies to conduct occurring on or after the applicable
- 4 effective date of this act.