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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. **6**

01/04/2023 Authored by Stephenson, Newton, Klevorn, Bahner, Kotyza-Witthuhn and others
The bill was read for the first time and referred to the Committee on Commerce Finance and Policy
01/17/2023 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Civil Law
01/23/2023 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time

1.1 A bill for an act
1.2 relating to consumer protection; prohibiting price gouging during an abnormal
1.3 market disruption; prescribing penalties; proposing coding for new law in Minnesota
1.4 Statutes, chapter 325E.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [325E.80] ABNORMAL MARKET DISRUPTIONS; UNCONSCIONABLY
1.7 EXCESSIVE PRICES.

1.8 Subdivision 1. **Definitions.** (a) For purposes of this section, the terms in this subdivision
1.9 have the meanings given.

1.10 (b) "Essential consumer good or service" means a good or service that is vital and
1.11 necessary for the health, safety, and welfare of the public, including without limitation:
1.12 food; water; fuel; gasoline; shelter; transportation; health care services; pharmaceuticals;
1.13 and medical, personal hygiene, sanitation, and cleaning supplies.

1.14 (c) "Seller" means a manufacturer, supplier, wholesaler, distributor, or retail seller of
1.15 goods and services.

1.16 (d) "Unconscionably excessive price" means a price that represents a gross disparity
1.17 compared to the seller's average price of an essential good or service, offered for sale or
1.18 sold in the usual course of business, in the 60-day period before an abnormal market
1.19 disruption is declared under subdivision 2. None of the following is an unconscionably
1.20 excessive price:

1.21 (1) a price that is substantially related to an increase in the cost of manufacturing,
1.22 obtaining, replacing, providing, or selling a good or service;

2.1 (2) a price that is no more than 25 percent above the seller's average price during the
2.2 60-day period before an abnormal market disruption is declared under subdivision 2;

2.3 (3) a price that is consistent with the fluctuations in applicable commodity markets or
2.4 seasonal fluctuations; or

2.5 (4) a contract price, or the results of a price formula, that was established before an
2.6 abnormal market disruption is declared under subdivision 2.

2.7 Subd. 2. **Abnormal market disruption.** (a) The governor may by executive order declare
2.8 an abnormal market disruption if, in the governor's sole determination, there has been or is
2.9 likely to be a substantial and atypical change in the market for an essential consumer good
2.10 or service caused by an event or circumstances that result in a declaration of a state of
2.11 emergency by the governor. The governor may specify an effective period for a declaration
2.12 under this section that is shorter than the effective period for the state of emergency
2.13 declaration.

2.14 (b) The governor's abnormal market disruption declaration must state that the declaration
2.15 is activating this section and must specify the geographic area of Minnesota to which the
2.16 declaration applies.

2.17 (c) Unless an earlier date is specified by the governor, an abnormal market disruption
2.18 declaration under this subdivision terminates 30 days after the date that the state of emergency
2.19 for which it was activated ends.

2.20 Subd. 3. **Notice.** Upon the implementation, renewal, limitation, or termination of an
2.21 abnormal market disruption declaration made under subdivision 2: (1) the governor must
2.22 immediately post notice on applicable government websites and provide notice to the media;
2.23 and (2) the commissioner of commerce must provide notice directly to sellers by any practical
2.24 means.

2.25 Subd. 4. **Prohibition.** If the governor declares an abnormal market disruption, a person
2.26 is prohibited from selling or offering to sell an essential consumer good or service for an
2.27 amount that represents an unconscionably excessive price during the period in which the
2.28 abnormal market disruption declaration is effective.

2.29 Subd. 5. **Civil penalty.** A person who is found to have violated this section is subject
2.30 to a civil penalty of not more than \$1,000 per sale or transaction, with a maximum penalty
2.31 of \$25,000 per day. No other penalties may be imposed for the same conduct regulated
2.32 under this section.

3.1 Subd. 6. **Enforcement authority.** (a) The attorney general may investigate and bring
3.2 an action against a seller for an alleged violation of this section.

3.3 (b) Nothing in this section creates a private cause of action in favor of a person injured
3.4 by a violation of this section.

3.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.