

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

SESSION LAW 2003-412
SENATE BILL 963

AN ACT TO PROHIBIT SELLERS FROM CHARGING EXCESSIVE PRICES ON
THEIR MERCHANDISE AND SERVICES DURING DECLARED STATES OF
DISASTER.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 75 of the General Statutes is amended by adding new sections to read:

"§ 75-36. Declaration of State public policy.

It is the public policy of this State to protect its citizens from price gouging during states of disaster. The State also realizes the difficulty in regulating prices while not defeating the ability of the market in goods and services from bringing supply back in balance with demand and not defeating the function of price in allocating scarce resources.

"§ 75-36.1. Prohibit excessive pricing during states of disaster.

(a) It shall be a violation of G.S. 75-1.1 for any person to sell or rent or offer to sell or rent at retail during a state of disaster, in the area for which the state of disaster has been declared, any merchandise or services which are consumed or used as a direct result of an emergency or which are consumed or used to preserve, protect, or sustain life, health, safety, or comfort of persons or their property with the knowledge and intent to charge a price that is unreasonably excessive under the circumstances. In determining whether a price is unreasonably excessive, it shall be considered whether:

- (1) The price charged by the seller is attributable to additional costs imposed by the seller's supplier or other costs of providing the good or service during the state of disaster; and
- (2) The seller offered to sell or rent the merchandise or service at a price that was below the seller's average price in the preceding 60 days before the state of disaster.

If the seller did not sell or rent or offer to sell or rent the merchandise or service in question prior to the time the state of disaster was declared, the price at which the merchandise or service was generally available in the trade area shall be used as a factor in determining if the seller is charging an unreasonably excessive price.

(b) In the event the Attorney General investigates a complaint for a violation of this section and determines that the seller has not violated the provisions of this section and if the seller so requests, the Attorney General shall promptly issue a signed statement indicating that the Attorney General has not found a violation of this section.

(c) For the purposes of this section, the end of a state of disaster is the earlier of 45 days or the termination of a natural or man-made disaster or emergency as declared in accordance with G.S. 166A-6 or G.S. 166A-8."

SECTION 2. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 16th day of
July, 2003.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Richard T. Morgan
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 10:51 a.m. this 14th day of August, 2003