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VIRGINIA ACTS OF ASSEMBLY -- 2020 SPECIAL SESSION I

Recognized as laws to support COVID-19 response and recovery efforts:
https://www.governor.virginia.gov/newsroom/all-releases/2020/october/headline-860965-en.html

CHAPTER 16

An Act to amend and reenact §§ 59.1-526 and 59.1-527 of the Code of Virginia, relating to the Virginia Post-Disaster Anti-Price Gouging Act; manufacturers and distributors.

[H 5047]

Approved October 21, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-526 and 59.1-527 of the Code of Virginia are amended and reenacted as follows:

§ 59.1-526. Definitions.

As used in this chapter:

"Disaster" means any "disaster," "emergency," or "major disaster," as those terms are used and defined in § 44-146.16, that results in the declaration of a state of emergency by the Governor or the President of the United States.

~~"Goods,"~~ *"Consumer transaction," "goods," and* "services," ~~and~~ ~~"supplier"~~ have the same meanings as are set forth for those terms in § 59.1-198.

"Necessary goods and services" means any necessary good or service for which consumer demand does, or is likely to, increase as a consequence of the disaster, and includes~~, but is not limited to,~~ water, ice, consumer food items or supplies, property or services for emergency cleanup, emergency supplies, communication supplies and services, medical supplies and services, home heating fuel, building materials and services, tree removal supplies and services, freight, storage services, housing, lodging, transportation, and motor fuels.

"Supplier" means a seller, lessor, licensor, or professional who advertises, solicits, or engages in consumer transactions, or a manufacturer, distributor, or licensor who sells, leases, or licenses goods or services to be resold, leased, or sublicensed by other persons in consumer transactions. However, a manufacturer, distributor, or licensor who sells, leases, or licenses agricultural goods or services to be resold, leased, or sublicensed by other persons in consumer transactions shall not be considered a "supplier" unless such manufacturer, distributor, or licensor advertises such agricultural goods or services.

"Time of disaster" means the shorter of (i) the period of time when a state of emergency declared by the Governor or the President of the United States as the result of a disaster, emergency, or major disaster, as those terms are used and defined in § 44-146.16, is in effect or (ii) 30 days after the occurrence of the disaster, emergency, or major disaster that resulted in the declaration of the state of emergency; however, if the state of emergency is extended or renewed within 30 days after such an occurrence, then such period shall be extended to include the 30 days following the date the state of emergency was extended or renewed.

§ 59.1-527. Prohibitions.

During any time of disaster, it shall be unlawful for any supplier to sell, lease, or license, or to offer to sell, lease, or license, any necessary goods and services at an unconscionable price within the area for which the state of emergency is declared. Actual sales at the increased price shall not be required for the increase to be considered unconscionable. In determining whether a price increase is unconscionable, the following shall be considered:

1. Whether the price charged by the supplier grossly exceeded the price charged by the supplier for the same or similar goods or services during the 10 days immediately prior to the time of disaster, provided that, with respect to any supplier who was offering a good or service at a reduced price immediately prior to the time of disaster, the price at which the supplier usually offers the good or service shall be used as the benchmark for these purposes;

2. Whether the price charged by the supplier grossly exceeded the price at which the same or similar goods or services were readily obtainable by ~~consumers~~ *purchasers* in the trade area during the 10 days immediately prior to the time of disaster;

3. Whether the increase in the amount charged by the supplier was attributable solely to additional costs incurred by the supplier in connection with the sale of the goods or services, including additional costs imposed by the supplier's source. Proof that the supplier incurred such additional costs during the time of disaster shall be prima facie evidence that the price increase *by that supplier* was not unconscionable; and

4. Whether the increase in the amount charged by the supplier was attributable solely to a regular seasonal or holiday adjustment in the price charged for the good or service. Proof that the supplier regularly increased the price for a particular good or service during portions of the period covered by the time of disaster would be prima facie evidence that the price increase was not unconscionable during those periods.