

ASSEMBLY SUBSTITUTE FOR  
**ASSEMBLY, Nos. 892 and 1560**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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ADOPTED OCTOBER 3, 2001

**Sponsored by:**

**Assemblyman CHRISTOPHER "KIP" BATEMAN**

**District 16 (Morris and Somerset)**

**Assemblyman PETER J. BIONDI**

**District 16 (Morris and Somerset)**

**Assemblyman CHARLES "KEN" ZISA**

**District 37 (Bergen)**

**Assemblywoman NIA H. GILL**

**District 27 (Essex)**

**SYNOPSIS**

Prohibits sale of certain merchandise at excessive prices during certain emergencies.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the General Assembly.



1 AN ACT prohibiting excessive price increases at certain times and  
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. The Legislature finds and declares that during emergencies and  
8 major disasters, including, but not limited to, earthquakes, fires, floods  
9 or civil disturbances, some merchants have taken unfair advantage of  
10 consumers by greatly increasing prices for certain merchandise. While  
11 the pricing of merchandise is generally best left to the marketplace  
12 under ordinary conditions, when a declared state of emergency results  
13 in abnormal disruptions of the market, the public interest requires that  
14 excessive and unjustified price increases in the sale of certain  
15 merchandise be prohibited. It is the intention of the Legislature to  
16 prohibit excessive and unjustified price increases in the sale of certain  
17 merchandise during declared states of emergency in New Jersey.

18

19 2. As used in this act:

20 "Excessive price increase" means a price that is excessive as  
21 compared to the price at which the consumer good or service was sold  
22 or offered for sale by the seller in the usual course of business  
23 immediately prior to the state of emergency. A price shall be deemed  
24 excessive if:

25 (1) The price exceeds by more than 10 percent the price at which  
26 the good or service was sold or offered for sale by the seller in the  
27 usual course of business immediately prior to the state of emergency,  
28 unless the price charged by the seller is attributable to additional costs  
29 imposed by the seller's supplier or other costs of providing the good  
30 or service during the state of emergency;

31 (2) In those situations where the increase in price is attributable  
32 to additional costs imposed by the seller's supplier or additional costs  
33 of providing the good or service during the state of emergency, the  
34 price represents an increase of more than 10 percent in the amount of  
35 markup from cost, compared to the markup customarily applied by the  
36 seller in the usual course of business immediately prior to the state of  
37 emergency.

38 "State of emergency" means a natural or man-made disaster or  
39 emergency for which a state of emergency has been declared by the  
40 President of the United States or the Governor, or for which a state of  
41 emergency has been declared by a municipal emergency management  
42 coordinator.

43

44 3. It shall be an unlawful practice for any person to sell or offer to  
45 sell during a state of emergency or within 30 days of the termination  
46 of a state of emergency, in the area for which the state of emergency  
47 has been declared, any merchandise which is consumed or used as a

1 direct result of an emergency or which is consumed or used to  
2 preserve, protect, or sustain the life, health, safety or comfort of  
3 persons or their property for a price that constitutes an excessive price  
4 increase.

5  
6 4. This act shall take effect immediately.

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9 STATEMENT

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11 This bill prohibits the charging of an excessive price for certain  
12 merchandise during a state of emergency or within 30 days of the  
13 termination of a state of emergency. The bill defines a state of  
14 emergency as a natural or man-made disaster or emergency for which  
15 a state of emergency has been declared by the President of the United  
16 States or the Governor, or for which a state of local disaster  
17 emergency has been proclaimed by a municipal emergency  
18 management coordinator. Pursuant to the consumer fraud law, which  
19 this bill supplements, merchandise is defined as including any objects,  
20 wares, goods, commodities, services or anything offered, directly or  
21 indirectly to the public for sale.

22 The bill defines an excessive price as a price that is excessive as  
23 compared to the price at which the consumer good or service was sold  
24 or offered for sale by the seller in the usual course of business  
25 immediately prior to the state of emergency. A price shall be deemed  
26 excessive if the price exceeds by more than 10 percent the price at  
27 which the good or service was sold or offered for sale by the seller in  
28 the usual course of business immediately prior to the state of  
29 emergency, unless the price charged by the seller is attributable to  
30 additional costs imposed by the seller's supplier or other costs of  
31 providing the good or service during the state of emergency. In those  
32 situations where the increase in price is attributable to additional costs  
33 imposed by the seller's supplier or additional costs of providing the  
34 good or service during the state of emergency, the price shall be  
35 deemed excessive if it represents an increase of more than 10 percent  
36 in the amount of markup from cost, compared to the markup  
37 customarily applied by the seller in the usual course of business  
38 immediately prior to the state of emergency.

39 The bill provides that it is an unlawful practice under the consumer  
40 fraud law to charge an excessive price during a state of emergency or  
41 within 30 days of the termination of a state of emergency any  
42 merchandise which is consumed or used as a direct result of an  
43 emergency or which is consumed or used to preserve, protect, or  
44 sustain the life, health, safety or comfort of persons or their property.  
45 By supplementing the consumer fraud law, this bill subjects violators  
46 to a penalty of not more than \$7,500 for a first offense and not more  
47 than \$15,000 for the second and each subsequent offense.