

HOUSE BILL No. 1229

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-9.1.

Synopsis: Infant formula price gouging. Defines "price gouging" to include charging a consumer an unconscionable amount for the sale of infant formula. Provides that price gouging occurs in the sale of infant formula if the price at which the infant formula is sold grossly exceeds the average price charged for infant formula of the same brand and type in retail establishments in Indiana on or about the date on which the infant formula is sold. Authorizes the attorney general to investigate complaints, seek injunctive relief, seek restitution for victims, and institute actions to collect civil penalties in cases of price gouging in the sale of infant formula. Provides that a court may assess a civil penalty of up to \$1,000 for each transaction against a retailer found to have committed price gouging in the sale of infant formula.

Effective: Upon passage.

Bauer M, Fleming

January 10, 2023, read first time and referred to Committee on Commerce, Small Business and Economic Development.



First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1229

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-6-9.1-1 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) ~~Sections 1~~
 3 ~~through 7~~ **The provisions** of this chapter **relating to price gouging in**
 4 **the sale of fuel** apply to:
 5 (1) the period during which an emergency is declared; and
 6 (2) the twenty-four (24) hours before the declaration **of the**
 7 **emergency**;
 8 by the governor under IC 10-14-3-12 or IC 10-14-3-13.
 9 (b) The definitions in IC 10-14-3 apply to this chapter.
 10 SECTION 2. IC 4-6-9.1-2 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. ~~(a) For purposes~~
 12 ~~of~~ **The following definitions apply throughout** this chapter:
 13 (1) **"Infant formula" means a food that is manufactured,**
 14 **packaged, and labeled specifically for special dietary use**
 15 **solely as a food for infants by reason of:**
 16 (A) **its simulation of human milk; or**
 17 (B) **its suitability as a complete or partial substitute for**



- 1 **human milk.**
- 2 **(2)** "Price gouging" means charging a consumer an
- 3 unconscionable amount for the sale of:
- 4 **(A)** fuel; or
- 5 **(B)** infant formula.
- 6 **(b) For purposes of this chapter, price gouging occurs in the sale**
- 7 **of fuel if:**
- 8 (1) the amount charged grossly exceeds the average price at
- 9 which fuel was readily obtainable within the retailer's trade area
- 10 during the seven (7) days immediately before the declaration of
- 11 emergency; and
- 12 (2) the increase in the amount charged is not attributable to cost
- 13 factors to the retailer, including replacement costs, taxes, and
- 14 transportation costs incurred by the retailer.
- 15 **(c) For purposes of this chapter, price gouging occurs in the sale**
- 16 **of infant formula if the amount that a consumer is charged for the**
- 17 **infant formula grossly exceeds the average price charged for infant**
- 18 **formula of the same brand and type in retail establishments in**
- 19 **Indiana on or about the date on which the infant formula is sold.**
- 20 SECTION 3. IC 4-6-9.1-5 IS AMENDED TO READ AS
- 21 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a)** If an
- 22 investigation by the attorney general results in a finding of price
- 23 gouging, the attorney general may bring an action in a circuit or
- 24 superior court with jurisdiction in the county where the price gouging
- 25 allegedly occurred.
- 26 **(b)** If the court finds that the retailer engaged in price gouging, the
- 27 court may assess a civil penalty against the retailer. The civil penalty
- 28 may not be more than one thousand dollars (\$1,000) **per for each**
- 29 **transaction in which a sale of fuel or infant formula constitutes**
- 30 **price gouging.**
- 31 SECTION 4. **An emergency is declared for this act.**

