

SENATE No. 342

The Commonwealth of Massachusetts

PRESENTED BY:

Benjamin B. Downing

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act protecting consumers during a state of emergency.

PETITION OF:

NAME:

Benjamin B. Downing

DISTRICT/ADDRESS:

Berkshire, Hampshire and Franklin

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT PROTECTING CONSUMERS DURING A STATE OF EMERGENCY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 **SECTION 1.** The General Laws are hereby amended in chapter 93, by inserting after section 14S
2 the following section:-

3 Section 14T. Unconscionable Prices in a State of Emergency

4 (a) As used in the section the following words shall have the following meanings:

5 “Commodity” means goods, services, materials, merchandise, supplies, equipment, resources, or other
6 articles of commerce, and includes, without limitation, food, water, ice, chemicals, petroleum products,
7 and lumber essential for consumption or use as a direct result of a declared state of emergency.

8 “dwelling unit” shall include single and multi-family homes, apartment or condominium unit, motel or
9 hotel unit or other temporary lodging.

10 “Unconscionable price” an amount charged which represents a gross disparity between the price of the
11 commodity or rental or lease of a dwelling unit, including a motel or hotel unit or other temporary
12 lodging, or self-storage facility that is the subject of the offer or transaction and the average price at which
13 that commodity or dwelling unit, including a motel or hotel unit or other temporary lodging, or self-
14 storage facility was rented, leased, sold, or offered for rent or sale in the usual course of business during
15 the 30 days immediately before a declaration of a state of emergency, and the increase in the amount
16 charged is not attributable to additional costs incurred in connection with the rental or sale of the

17 commodity or rental or lease of the dwelling unit, including a motel or hotel unit or other temporary
18 lodging, or self-storage facility, or regional, national, or international market trends; or grossly exceeds
19 the average price at which the same or similar commodity, dwelling unit, including a motel or hotel unit
20 or other temporary lodging, or self-storage facility was readily obtainable in the trade area during the 30
21 days immediately before a declaration of a state of emergency. Such price shall not include a price during
22 that period set as a result of a bona fide manufacturer's or suppliers limited discount or rebate; provided
23 however that the increase in the amount charged is not with rental or sale of the commodity or rental or
24 lease of the dwelling unit, including a motel or hotel unit or other temporary lodging, or self-storage
25 facility, or as the result of regional, national, or international market trends, or is attributable to additional
26 costs in connection with the disaster, including replacement costs imposed by the vendors source.

27 (b) Notwithstanding the provisions of section 9H of chapter 23, whenever the Governor shall determine
28 that an emergency exists in respect to food or fuel or any other common necessity of life, including the
29 providing of shelter, it shall be a violation of this section for a person or his agent or employee to rent or
30 sell or offer to rent or sell a commodity or dwelling unit at an unconscionable price within the area for
31 which the state of emergency is declared; This prohibition remains in effect until the declaration expires
32 or is terminated.

33 Upon a declaration of a state of disaster by the President, in which the disaster area includes all or
34 a portion of the commonwealth, it shall be a violation of this section for a person or his agent or employee
35 in this state to rent or sell or offer to rent or sell a commodity or dwelling unit at an unconscionable price
36 within the area for which the state of disaster is declared. This prohibition remains in effect until ten days
37 after the declaration expires or is terminated.

38 (c) A price increase approved by an appropriate government agency is not a violation of this
39 section.

40 (d) A violation of this section shall be punished by a fine of not more than \$5,000.