

SENATE No. 00096

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

SENATE No. 00096

By Mr. Downing, petition (accompanied by bill, Senate, No. 96) of Downing for legislation to protect consumers during a state of emergency [Joint Committee on Consumer Protection and Professional Licensure].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ SENATE
□ , NO. 342 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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. Chapter 93 of the General Laws is hereby amended by inserting after
2 section 14S 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,
6 resources, or other articles of commerce, and includes, without limitation, food, water, ice,
7 chemicals, petroleum products, and lumber essential for consumption or use as a direct result of
8 a declared state of emergency.

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

11 "Unconscionable price" an amount charged which represents a gross disparity between
12 the price of the commodity or rental or lease of a dwelling unit, including a motel or hotel unit or
13 other temporary lodging, or self-storage facility that is the subject of the offer or transaction and
14 the average price at which that commodity or dwelling unit, including a motel or hotel unit or
15 other temporary lodging, or self-storage facility was rented, leased, sold, or offered for rent or
16 sale in the usual course of business during the 30 days immediately before a declaration of a state
17 of emergency, and the increase in the amount charged is not attributable to additional costs
18 incurred in connection with the rental or sale of the commodity or rental or lease of the dwelling
19 unit, including a motel or hotel unit or other temporary lodging, or self-storage facility, or
20 regional, national, or international market trends; or grossly exceeds the average price at which
21 the same or similar commodity, dwelling unit, including a motel or hotel unit or other temporary
22 lodging, or self-storage facility was readily obtainable in the trade area during the 30 days
23 immediately before a declaration of a state of emergency. Such price shall not include a price
24 during that period set as a result of a bona fide manufacturer's or suppliers limited discount or
25 rebate; provided however that the increase in the amount charged is not with rental or sale of the
26 commodity or rental or lease of the dwelling unit, including a motel or hotel unit or other
27 temporary lodging, or self-storage facility, or as the result of regional, national, or international
28 market trends, or is attributable to additional costs in connection with the disaster, including
29 replacement costs imposed by the vendors source.

30 (b) Notwithstanding the provisions of section 9H of chapter 23, whenever the Governor
31 shall determine that an emergency exists in respect to food or fuel or any other common

32 necessity of life, including the providing of shelter, it shall be a violation of this section for a
33 person or his agent or employee to rent or sell or offer to rent or sell a commodity or dwelling
34 unit at an unconscionable price within the area for which the state of emergency is declared;
35 This prohibition remains in effect until the declaration expires or is terminated.

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

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

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