

# SENATE BILL 376

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By: **Senators King, Manno, Montgomery, Peters, Ramirez, and Raskin**

Introduced and read first time: January 25, 2013

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Emergency Management – Essential Goods and Services**

3 FOR the purpose of prohibiting a person from selling or offering to sell certain goods  
4 and services for a certain price during a state of emergency; prohibiting a  
5 person from selling or offering to sell certain services for a certain price during a  
6 state of emergency and for a certain amount of time following a state of  
7 emergency; creating a certain exception; requiring the Office of the Attorney  
8 General to provide a person an opportunity to present evidence that a price  
9 increase was not unlawful; establishing that certain matters and allegations are  
10 confidential under certain circumstances and may not be disclosed to certain  
11 persons; providing that a certain sale or offer for sale is an unfair or deceptive  
12 trade practice; altering a certain definition; defining certain terms; and  
13 generally relating to the sale of goods and services during or following a state of  
14 emergency.

15 BY repealing and reenacting, without amendments,  
16 Article – Public Safety  
17 Section 14–101(a)  
18 Annotated Code of Maryland  
19 (2011 Replacement Volume and 2012 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article – Public Safety  
22 Section 14–101(c)  
23 Annotated Code of Maryland  
24 (2011 Replacement Volume and 2012 Supplement)

25 BY adding to  
26 Article – Public Safety  
27 Section 14–1101 through 14–1104 to be under the new subtitle “Subtitle 11.  
28 Essential Goods and Services”

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2011 Replacement Volume and 2012 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article – Public Safety**

6 14–101.

7 (a) In this subtitle the following words have the meanings indicated.

8 (c) “Emergency” means the threat or occurrence of:

9 (1) a hurricane, tornado, storm, flood, high water, wind–driven water,  
10 tidal wave, earthquake, landslide, mudslide, snowstorm, drought, fire, explosion, and  
11 any other disaster in any part of the State that requires State assistance to  
12 supplement local efforts in order to save lives and protect public health and safety;  
13 [or]

14 (2) an enemy attack, act of terrorism, or public health catastrophe; **OR**

15 (3) **FOR PURPOSES OF SUBTITLE 11 OF THIS TITLE, A CRITICAL**  
16 **SHORTAGE IN THE STATE OF ESSENTIAL GOODS AND SERVICES AS DEFINED IN §**  
17 **14–1101 OF THIS TITLE.**

18 **SUBTITLE 11. ESSENTIAL GOODS AND SERVICES.**

19 14–1101.

20 (A) **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
21 **INDICATED.**

22 (B) **“BUILDING MATERIALS” MEANS ANY ITEM, OBJECT, OR OTHER**  
23 **THING USED IN THE BUILDING OR REBUILDING OF REAL PROPERTY, INCLUDING**  
24 **LUMBER, CONSTRUCTION TOOLS, AND WINDOWS.**

25 (C) **“CONSUMER GOODS” HAS THE MEANING STATED IN § 13–101 OF**  
26 **THE COMMERCIAL LAW ARTICLE.**

27 (D) **“CONSUMER SERVICES” HAS THE MEANING STATED IN § 13–101 OF**  
28 **THE COMMERCIAL LAW ARTICLE.**

1           **(E) “EMERGENCY SUPPLIES” INCLUDES WATER, FLASHLIGHTS, RADIOS,**  
2 **BATTERIES, CANDLES, BLANKETS, SOAP, DIAPERS, TEMPORARY SHELTERS,**  
3 **TAPE, TOILETRIES, PLYWOOD, NAILS, AND HAMMERS.**

4           **(F) “ESSENTIAL GOODS AND SERVICES” MEANS ANY OF THE**  
5 **FOLLOWING, IF SPECIFIED BY CATEGORY OR BY INDIVIDUAL ITEMS IN AN**  
6 **EXECUTIVE ORDER OF THE GOVERNOR IN CONNECTION WITH A STATE OF**  
7 **EMERGENCY:**

8                   **(1) FOOD ITEMS;**

9                   **(2) CONSUMER GOODS AND SERVICES;**

10                  **(3) GOODS AND SERVICES USED FOR EMERGENCY CLEANUP;**

11                  **(4) EMERGENCY SUPPLIES;**

12                  **(5) MEDICAL SUPPLIES AND EQUIPMENT;**

13                  **(6) HOME HEATING OIL;**

14                  **(7) BUILDING MATERIALS;**

15                  **(8) HOUSING;**

16                  **(9) TRANSPORTATION, FREIGHT, AND STORAGE SERVICES;**

17                  **(10) GASOLINE; OR**

18                   **(11) GOODS AND SERVICES NECESSARY TO PRESERVE THE**  
19 **HEALTH, SAFETY, OR WELFARE OF THE PUBLIC.**

20           **(G) “FOOD ITEM” MEANS ANY ARTICLE THAT IS USED OR INTENDED FOR**  
21 **USE FOR FOOD OR DRINK.**

22           **(H) “FUEL” MEANS GASOLINE, DIESEL, OR OTHER FUEL USED TO**  
23 **POWER A MOTOR VEHICLE OR POWER TOOL.**

24           **(I) (1) “HOUSING” MEANS RENTAL HOUSING.**

25                   **(2) “HOUSING” INCLUDES HOUSING PROVIDED BY A HOTEL,**  
26 **MOTEL, OR CAMPGROUND.**

1           **(J) “MEDICAL SUPPLIES OR EQUIPMENT” INCLUDES PRESCRIPTION**  
2 **AND NONPRESCRIPTION MEDICATIONS, VACCINES, BANDAGES, GAUZE,**  
3 **ISOPROPYL ALCOHOL, MEDICAL EQUIPMENT, ANTIVIRAL PRODUCTS, AND**  
4 **ANTIBACTERIAL PRODUCTS.**

5           **(K) “PRICE” MEANS RETAIL OR WHOLESALE PRICE.**

6           **(L) “REPAIR OR RECONSTRUCTION SERVICES” MEANS SERVICES**  
7 **PERFORMED BY A PERSON FOR REPAIRS TO RESIDENTIAL OR COMMERCIAL**  
8 **PROPERTY THAT IS DAMAGED AS A RESULT OF A DISASTER OR TERRORIST**  
9 **ATTACK.**

10          **(M) “REPLACEMENT COSTS” MEANS:**

11           **(1) ACQUISITION COSTS;**

12           **(2) COSTS THAT ARE A RESULT OF A CONTRACT IN WHICH THE**  
13 **CONSUMER GOODS AND SERVICES ARE PRICED ACCORDING TO A FORMULA**  
14 **THAT REFERENCES PUBLISHED MARKET PRICES; OR**

15           **(3) THE ACTUAL OR REASONABLY CONTEMPLATED COSTS OF**  
16 **REPLACING A GOOD OR SERVICE BEING SOLD, BASED ON INFORMATION**  
17 **AVAILABLE AT THE TIME OF THE INCREASE IN PRICE.**

18          **(N) “STATE OF EMERGENCY” MEANS A STATE OF EMERGENCY**  
19 **DECLARED BY THE GOVERNOR UNDER § 14–107 OF THIS TITLE.**

20          **(O) “TRANSPORTATION, FREIGHT, AND STORAGE SERVICES” MEANS**  
21 **SERVICES PERFORMED BY A PERSON UNDER A CONTRACT TO MOVE, STORE, OR**  
22 **TRANSPORT PERSONAL OR BUSINESS PROPERTY OR RENT EQUIPMENT FOR**  
23 **THOSE PURPOSES.**

24 **14–1102.**

25          **(A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,**  
26 **DURING A STATE OF EMERGENCY, IN THE GEOGRAPHIC AREA COVERED BY THE**  
27 **DECLARATION OF THE STATE OF EMERGENCY, A PERSON MAY NOT SELL OR**  
28 **OFFER TO SELL ESSENTIAL GOODS AND SERVICES SPECIFIED BY EXECUTIVE**  
29 **ORDER OF THE GOVERNOR, OTHER THAN SERVICES USED FOR EMERGENCY**  
30 **CLEANUP, FOR A PRICE OF MORE THAN 10% ABOVE THE HIGHEST PRICE AT**  
31 **WHICH THE PERSON MADE ACTUAL SALES OR RENTALS OF THOSE ESSENTIAL**  
32 **GOODS OR SERVICES NOT MORE THAN 60 DAYS OR LESS THAN 4 DAYS BEFORE**  
33 **THE STATE OF EMERGENCY.**

1           **(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,**  
2 **DURING A STATE OF EMERGENCY, AND FOR THE FOLLOWING 90 DAYS, A PERSON**  
3 **MAY NOT SELL OR OFFER TO SELL REPAIR OR RECONSTRUCTION SERVICES OR**  
4 **SERVICES USED FOR EMERGENCY CLEANUP FOR A PRICE OF MORE THAN 10%**  
5 **ABOVE THE PRICE CHARGED BY THE PERSON FOR THOSE SERVICES**  
6 **IMMEDIATELY BEFORE THE STATE OF EMERGENCY.**

7           **(C) A PERSON MAY CHARGE A PRICE INCREASE OF MORE THAN 10% IF**  
8 **THE PERSON CAN PROVE THAT:**

9                   **(1) THE PRICE INCREASE WAS DIRECTLY ATTRIBUTABLE TO**  
10 **ADDITIONAL COSTS IMPOSED ON THE PERSON BY THE SUPPLIER OF THE GOODS,**  
11 **INCLUDING REPLACEMENT COSTS; OR**

12                   **(2) THE PRICE INCREASE WAS DIRECTLY ATTRIBUTABLE TO**  
13 **ADDITIONAL COSTS FOR LABOR OR MATERIALS USED TO PROVIDE THE**  
14 **SERVICES OR TO PRODUCE THE GOODS, INCLUDING COSTS TO REPAIR ANY**  
15 **DAMAGE RELATING TO THE STATE OF EMERGENCY.**

16           **(D) AT LEAST 20 DAYS BEFORE AN ACTION IS FILED UNDER § 14-1103**  
17 **OF THIS SUBTITLE, THE OFFICE OF THE ATTORNEY GENERAL SHALL PROVIDE A**  
18 **PERSON WHOSE ACTIONS MAY BE IN VIOLATION OF THIS SECTION NOTICE OF**  
19 **THE GENERAL RELIEF SOUGHT BY THE OFFICE TO PROVIDE THE PERSON AN**  
20 **OPPORTUNITY TO PRESENT EVIDENCE THAT THE PRICE INCREASE WAS IN**  
21 **ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.**

22           **(E) DURING THE COURSE OF AN INVESTIGATION BY THE OFFICE OF**  
23 **THE ATTORNEY GENERAL UNDER THIS SECTION, ANY MATTER OR ALLEGATION**  
24 **UNDER INVESTIGATION IS CONFIDENTIAL AND MAY NOT BE DISCLOSED TO**  
25 **ANYONE OUTSIDE OF THE OFFICE OF THE ATTORNEY GENERAL OTHER THAN**  
26 **THE PERSON BEING INVESTIGATED OR THE PERSON'S ATTORNEY.**

27 **14-1103.**

28           **A SALE OR OFFER FOR SALE OF ESSENTIAL GOODS AND SERVICES THAT**  
29 **VIOLATES THIS SUBTITLE IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE**  
30 **UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE, EXCEPT THAT THE**  
31 **REMEDIES PROVIDED UNDER § 13-411 OF THE COMMERCIAL LAW ARTICLE**  
32 **MAY NOT APPLY TO A VIOLATION OF THIS SUBTITLE.**

33 **14-1104.**

1           **THE SECRETARY OF STATE SHALL ADOPT REGULATIONS TO ESTABLISH A**  
2 **SYSTEM BY WHICH A PERSON MAY REGISTER TO RECEIVE ELECTRONIC**  
3 **NOTIFICATION:**

4                   **(1) STATING THAT A STATE OF EMERGENCY HAS BEEN DECLARED**  
5 **AND AN EXECUTIVE ORDER HAS BEEN ISSUED;**

6                   **(2) STATING THAT THE PROVISIONS OF THIS SUBTITLE ARE IN**  
7 **EFFECT; AND**

8                   **(3) LISTING THE CATEGORIES OR INDIVIDUAL ESSENTIAL GOODS**  
9 **AND SERVICES THAT ARE COVERED BY THE EXECUTIVE ORDER OF THE**  
10 **GOVERNOR.**

11           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2013.