

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 6

(SENATE AUTHORS: PORT, Fateh, Latz, Marty and Klein)		
DATE	D-PG	OFFICIAL STATUS
01/04/2023	71	Introduction and first reading Referred to Commerce and Consumer Protection
01/09/2023	116	Authors added Fateh; Latz; Marty
01/11/2023	146	Author added Klein
02/20/2023	894a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety
03/06/2023		Comm report: To pass as amended Second reading

1.1

A bill for an act

1.2

relating to consumer protection; prohibiting price gouging; establishing notice

1.3

requirements; prescribing penalties; providing the attorney general with

1.4

investigation and enforcement authority; creating a private civil right of action;

1.5

amending Minnesota Statutes 2022, section 8.31, subdivision 1; proposing coding

1.6

for new law in Minnesota Statutes, chapter 325E.

1.7

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8

Section 1. Minnesota Statutes 2022, section 8.31, subdivision 1, is amended to read:

1.9

Subdivision 1. **Investigate offenses against provisions of certain designated sections;**

1.10

assist in enforcement. The attorney general shall investigate violations of the law of this

1.11

state respecting unfair, discriminatory, and other unlawful practices in business, commerce,

1.12

or trade, and specifically, but not exclusively, the Nonprofit Corporation Act (sections

1.13

317A.001 to 317A.909), the Act Against Unfair Discrimination and Competition (sections

1.14

325D.01 to 325D.07), the Unlawful Trade Practices Act (sections 325D.09 to 325D.16),

1.15

the Antitrust Act (sections 325D.49 to 325D.66), section 325F.67 and other laws against

1.16

false or fraudulent advertising, the antidiscrimination acts contained in section 325D.67,

1.17

the act against monopolization of food products (section 325D.68), the act regulating

1.18

telephone advertising services (section 325E.39), the Prevention of Consumer Fraud Act

1.19

(sections 325F.68 to 325F.70), the act regulating price gouging (section 325E.80), and

1.20

chapter 53A regulating currency exchanges and assist in the enforcement of those laws as

1.21

in this section provided.

2.1 Sec. 2. **[325E.80] ABNORMAL MARKET DISRUPTIONS; UNCONSCIONABLY**
2.2 **EXCESSIVE PRICES.**

2.3 Subdivision 1. **Definitions.** (a) For purposes of this section, the terms in this subdivision
2.4 have the meanings given.

2.5 (b) "Essential consumer good or service" means a good or service that is vital for the
2.6 health, safety, or welfare of the public, including without limitation: food; water; fuel;
2.7 gasoline; shelter; transportation; health care services; pharmaceuticals; and medical, personal
2.8 hygiene, sanitation, and cleaning supplies.

2.9 (c) "Seller" means a manufacturer, supplier, wholesaler, distributor, or retail seller of
2.10 goods and services.

2.11 (d) "Unconscionably excessive price" means a price that represents a gross disparity
2.12 compared to the seller's average price of an essential good or service, offered for sale or
2.13 sold in the usual course of business, in the 60-day period before an abnormal market
2.14 disruption is declared under subdivision 2. None of the following is an unconscionably
2.15 excessive price:

2.16 (1) a price that is substantially related to an increase in the cost of manufacturing,
2.17 obtaining, replacing, providing, or selling a good or service;

2.18 (2) a price that is no more than 25 percent above the seller's average price during the
2.19 60-day period before an abnormal market disruption is declared under subdivision 2;

2.20 (3) a price that is consistent with the fluctuations in applicable commodity markets or
2.21 seasonal fluctuations; or

2.22 (4) a contract price, or the results of a price formula, that was established before an
2.23 abnormal market disruption is declared under subdivision 2.

2.24 Subd. 2. **Abnormal market disruption.** (a) The governor may by executive order declare
2.25 an abnormal market disruption if there is a substantial and atypical change in the market
2.26 for an essential consumer good or service caused by an event that results in a declaration
2.27 of a state of emergency by the governor.

2.28 (b) The governor's abnormal market disruption declaration must state that the declaration
2.29 is activating this section and must specify the geographic area of Minnesota to which the
2.30 declaration applies.

2.31 (c) A declaration under this subdivision terminates 30 days after the date that the state
2.32 of emergency for which it was activated ends.

3.1 Subd. 3. **Notice.** Upon the implementation, renewal, limitation, or termination of an
3.2 abnormal market disruption declaration made under subdivision 2: (1) the governor must
3.3 immediately post notice on applicable government websites and provide notice to the media;
3.4 and (2) the commissioner of commerce must provide notice directly to sellers by any practical
3.5 means.

3.6 Subd. 4. **Prohibition.** If the governor declares an abnormal market disruption, a person
3.7 is prohibited from selling or offering to sell an essential consumer good or service for an
3.8 amount that represents an unconscionably excessive price during the period in which the
3.9 abnormal market disruption declaration is effective.

3.10 Subd. 5. **Civil penalty.** A person who is found to have violated this section is subject
3.11 to a civil penalty of not more than \$1,000 per sale or transaction, with a maximum penalty
3.12 of \$25,000 per day, in addition to any damages that may be owed under subdivision 7.

3.13 Subd. 6. **Enforcement authority.** The attorney general may investigate and bring an
3.14 action against a seller for an alleged violation of this section. If the attorney general
3.15 investigates a violation of this section, the attorney general must: (1) promptly notify the
3.16 seller that they are the subject of an investigation; and (2) notify the seller when the
3.17 investigation closes. A notice issued by the attorney general notifying the seller that an
3.18 investigation has closed is not a determination on the merits of an investigation.

3.19 Subd. 7. **Damages.** Any person, any governmental body, or the state of Minnesota or
3.20 any of its subdivisions or agencies, injured directly or indirectly by a violation of this section
3.21 may bring a civil action and may recover up to three times the actual damages sustained.
3.22 In any subsequent action arising from the same conduct, the court may take any steps
3.23 necessary to avoid duplicative recovery against a defendant. In any action brought by the
3.24 attorney general pursuant to this section, the court may award any of the remedies allowable
3.25 under this subdivision or otherwise permitted by law.

3.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.