

HOUSE BILL 2141

By Shepard

AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 18 and Title 58, Chapter 2, relative to price-gouging during a state of emergency.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 47-18-104(b)(34), is amended by deleting the subdivision in its entirety and substituting instead the following:

(34) Unreasonably raising prices or unreasonably restricting supplies of essential goods, commodities or services:

(A) In response to a crime, act of terrorism, war, or natural disaster that has resulted in a declaration of a state emergency by the governor, or the president of the United States, regardless of whether such crime, act of terrorism, war, or natural disaster occurred in this state; and

(B) After the governor has made a declaration of a state of emergency pursuant to § 58-2-107(c)(4) giving notice to persons that this subdivision (b)(34) is applicable; provided, however, that:

(i) The goods, commodities or services covered by this subdivision (b)(34) shall only include those goods, commodities or services identified by the governor pursuant to § 58-2-107(c)(4)(C); and

(ii) This subdivision (b)(34) shall only apply during the time and in the locations specified by the governor pursuant to § 58-2-107(c)(4)(B);

SECTION 2. Tennessee Code Annotated, Section 47-18-5103, is amended by deleting the section in its entirety and substituting instead the following:

47-18-5103.

(a) Except as otherwise provided in subsection (b), if a state of emergency has been declared pursuant to § 58-2-107(c)(4) giving notice to persons that this section is applicable, then it is unlawful, in any county or municipality covered by the state of emergency and during the time specified by the governor, for any person to charge any other person a price for any consumer food items, repair or construction services, emergency supplies, medical supplies, building materials, gasoline, transportation, freight, and storage services, or housing that is grossly in excess of the price generally charged for the same or similar goods or services in the usual course of business immediately prior to the events giving rise to the state of emergency; provided, however, that the goods and services to which this subsection (a) applies shall only be those goods and services identified by the governor pursuant to § 58-2-107(c)(4)(C).

(b) An otherwise grossly excessive price increase is not unlawful if any one (1) of the following apply:

(1) It is commensurate with fluctuations in applicable commodity markets or with regional, national, or international market trends;

(2) It is pursuant to an agreement entered into before the proclamation and the state of emergency; or

(3) The person charging the higher price establishes by prima facie evidence that the increase was directly attributable to additional costs imposed on it by the supplier of the goods or services, or was directly attributable to additional costs for labor or materials used to provide the goods or services.

SECTION 3. Tennessee Code Annotated, Section 58-2-107(c), is amended by adding the following new subdivision (4):

(4) Identify whether §§ 47-18-104(b)(34) and 47-18-5103 are applicable and setting out:

(A) The time and day in which §§ 47-18-104(b)(34) and 47-18-5103 apply and in which the provisions no longer apply;

(B) The locations within this state that are covered by the application of §§ 47-18-104(b)(34) and 47-18-5103; and

(C) The essential goods, commodities or services that are included within the application of §§ 47-18-104(b)(34) and 47-18-5103.

SECTION 4. Tennessee Code Annotated, Section 58-2-107(k), is amended by designating the existing language as subdivision (1) and adding a new subdivision (2):

(2) The authority delegated to TEMA pursuant to this subsection (k) shall not include the authority to identify whether §§ 47-18-104(b)(34) and 47-18-5103 are applicable pursuant to subdivision (c)(4).

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.