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4 **SENATE BILL No. 382**

5
6 By Senator Schmidt

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8 1-14

9
10 AN ACT concerning the consumer protection act; relating to profiteering
11 from disaster.

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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. (a) It shall be an unconscionable act within the meaning
15 of K.S.A. 50-627, and amendments thereto, for any supplier to profiteer
16 from a disaster.

17 (b) As used in this section:

18 (1) "Profiteer from a disaster" means unjustifiably increasing during
19 a time of disaster the price at which any necessary property or service is
20 offered for sale to consumers. Actual sales at the increased price shall not
21 be required for the increase to be considered unconscionable. In deter-
22 mining whether the price increase described in this subsection is unjusti-
23 fied, the court shall consider all relevant circumstances including, but
24 not limited to, the following: (A) Whether the price charged by the sup-
25 plier during the time of disaster grossly exceeded the price charged by
26 the supplier for similar property or services immediately prior to the dis-
27 aster, and an increase of more than ~~25%~~ **50%** shall be *prima facie* evi-
28 dence of gross excess;

29 (B) whether the amount charged by the supplier during the time of
30 disaster grossly exceeded the price at which the same or similar property
31 or services were readily obtainable by other consumers in the trade area,
32 and a price difference of more than ~~25%~~ **50%** shall be *prima facie* evi-
33 dence of gross excess; and

34 (C) whether the increase in the amount charged by the supplier dur-
35 ing the time of disaster was attributable to additional costs incurred by
36 the supplier in connection with the sale of the product or service, and
37 proof the supplier incurred such additional costs shall be *prima facie*
38 evidence that the price increase was justified when such additional costs
39 were actually incurred by the supplier during the period in which the
40 substantially increased price was being charged;

41 (2) "time of disaster" means the period of time when a declaration
42 of a state of emergency by the president of the United States ~~or~~, the
43 governor **or any local official authorized to declare a state of local**

1 **disaster emergency pursuant to K.S.A. 48-932, and amendments**
2 **thereto**, is in effect; or 30 days after the occurrence of the event that
3 constitutes the disaster, whichever is longer;

4 (3) “disaster” means natural or man-made events including, but not
5 limited to, tornado or other severe storm, earthquake, flood, fire, riot, act
6 of war, terrorism, civil disorder or other extraordinary adverse circum-
7 stance. The court shall find that an event constitutes a disaster if the event
8 results in the declaration of a state of emergency by the president of the
9 United States ~~or~~, the governor **or any local official authorized to de-**
10 **clare a state of local disaster emergency pursuant to K.S.A. 48-932,**
11 **and amendments thereto**. The court may find that an event constitutes
12 a disaster in the absence of a declared state of emergency; and

13 (4) “necessary property or service” means any necessary property or
14 service for which consumer demand does, or is likely to, increase as a
15 consequence of the disaster and includes, but is not limited to, consumer
16 food items or property, property or services for emergency cleanup,
17 emergency supplies, communication supplies and services, medical sup-
18 plies and services, home heating fuel, building materials and services,
19 freight, storage services, housing, lodging, transportation and motor fuels.

20 (c) The provisions of this section shall be part of and supplemental
21 to the consumer protection act.

22 Sec. 2. This act shall take effect and be in force from and after its
23 publication in the statute book.

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