

SESSION OF 2002

SUPPLEMENTAL NOTE ON SENATE BILL NO. 382

As Amended by Senate Committee on
Judiciary

Brief*

SB 382 makes it an unconscionable act within the meaning of the Kansas Consumer Protection Act for any supplier to profiteer from a disaster.

“Profiteer from a disaster” means unjustifiably increasing during a time of disaster the price of any necessary property or service offered for sale to consumers. In determining whether the price increase is unjustified, the court is required to consider all relevant circumstances including, but not limited to, the following:

- ! Whether the price charged by the supplier grossly exceeded the price charged by the supplier for similar property or services immediately prior to the disaster, and an increase of more than 50 percent shall be *prima facie* evidence of gross excess;
- ! Whether the amount charged by the supplier grossly exceeded the price at which the same or similar property or services were readily obtainable by other consumers in the trade area, and a price difference of more than 50 percent shall be *prima facie* evidence of gross excess; and
- ! Whether the increase in the amount charged by the supplier was attributable to additional costs incurred by the supplier in connection with the sale of the product or service, and proof the supplier incurred such additional costs shall be *prima facie* evidence that the price increase was justified.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.accesskansas.org/legislature/>

“Time of disaster” means a state of emergency declared by the President of the United States, the Governor, or any local official authorized to declare a state of local emergency.

“Necessary property or service” means any property or service for which consumer demand does, or is likely to, increase as a consequence of the disaster and includes consumer food items or property, property or services for emergency cleanup, emergency supplies, communication supplies and services, medical supplies and services, home heating fuel, building materials and services, freight, storage services, housing, lodging, transportation, and motor fuels.

The Senate Committee amended the *prima facie* penalty to 50 percent and expanded "disaster" to include those locally declared.

Background

The bill was supported by the Consumer Protection/Antitrust Division of the Kansas Attorney General's Office and AARP Kansas.

The bill has no fiscal impact.