

**SENATE . . . . . No. 96**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Benjamin B. Downing***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act protecting consumers during a state of emergency..

PETITION OF:

NAME:

*Benjamin B. Downing*

DISTRICT/ADDRESS:

*Berkshire, Hampshire, and Franklin*

**SENATE . . . . . No. 96**

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By Mr. Downing, a petition (accompanied by bill, Senate, No. 96) of Benjamin B. Downing for legislation to protect consumers during a state of emergency. Consumer Protection and Professional Licensure.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 342 OF 2009-2010.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Eleven**  
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An Act protecting consumers during a state of emergency..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 93 of the General Laws is hereby amended by inserting after  
2 section 14S the following section:-

3 Section 14T. Unconscionable Prices in a State of Emergency

4 (a) As used in the section the following words shall have the following meanings:

5 "Commodity" means goods, services, materials, merchandise, supplies, equipment,  
6 resources, or other articles of commerce, and includes, without limitation, food, water, ice,  
7 chemicals, petroleum products, and lumber essential for consumption or use as a direct result of  
8 a declared state of emergency.

9 "dwelling unit" shall include single and multi-family homes, apartment or condominium  
10 unit, motel or hotel unit or other temporary lodging.

11 "Unconscionable price" an amount charged which represents a gross disparity between  
12 the price of the commodity or rental or lease of a dwelling unit, including a motel or hotel unit or  
13 other temporary lodging, or self-storage facility that is the subject of the offer or transaction and  
14 the average price at which that commodity or dwelling unit, including a motel or hotel unit or  
15 other temporary lodging, or self-storage facility was rented, leased, sold, or offered for rent or  
16 sale in the usual course of business during the 30 days immediately before a declaration of a state  
17 of emergency, and the increase in the amount charged is not attributable to additional costs  
18 incurred in connection with the rental or sale of the commodity or rental or lease of the dwelling  
19 unit, including a motel or hotel unit or other temporary lodging, or self-storage facility, or  
20 regional, national, or international market trends; or grossly exceeds the average price at which  
21 the same or similar commodity, dwelling unit, including a motel or hotel unit or other temporary  
22 lodging, or self-storage facility was readily obtainable in the trade area during the 30 days  
23 immediately before a declaration of a state of emergency. Such price shall not include a price  
24 during that period set as a result of a bona fide manufacturer's or suppliers limited discount or  
25 rebate; provided however that the increase in the amount charged is not with rental or sale of the  
26 commodity or rental or lease of the dwelling unit, including a motel or hotel unit or other  
27 temporary lodging, or self-storage facility, or as the result of regional, national, or international  
28 market trends, or is attributable to additional costs in connection with the disaster, including  
29 replacement costs imposed by the vendors source.

30 (b) Notwithstanding the provisions of section 9H of chapter 23, whenever the  
31 Governor shall determine that an emergency exists in respect to food or fuel or any other

32 common necessity of life, including the providing of shelter, it shall be a violation of this section  
33 for a person or his agent or employee to rent or sell or offer to rent or sell a commodity or  
34 dwelling unit at an unconscionable price within the area for which the state of emergency is  
35 declared; This prohibition remains in effect until the declaration expires or is terminated.

36           Upon a declaration of a state of disaster by the President, in which the disaster area  
37 includes all or a portion of the commonwealth, it shall be a violation of this section for a person  
38 or his agent or employee in this state to rent or sell or offer to rent or sell a commodity or  
39 dwelling unit at an unconscionable price within the area for which the state of disaster is  
40 declared. This prohibition remains in effect until ten days after the declaration expires or is  
41 terminated.

42           (c) A price increase approved by an appropriate government agency is not a violation of  
43 this section.

44           (d) A violation of this section shall be punished by a fine of not more than \$5,000.