

SENATE No. 930

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to prohibit price gouging during states 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 23, Section 9H of the General Laws is hereby amended by adding
2 at the end thereof the following: --

3 As used in this section the following words shall have the following meanings: --

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

8 “Unconscionable price” an amount charged which represents a gross disparity between
9 the price of the commodity or rental or lease of a dwelling unit, including a motel or hotel unit or
10 other temporary lodging, or self-storage facility that is the subject of the offer or transaction and
11 the average price at which that commodity or dwelling unit, including a motel or hotel unit or
12 other temporary lodging, or self-storage facility was rented, leased, sold, or offered for rent or
13 sale in the usual course of business during the 30 days immediately before a declaration of a state

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

27 Whenever the governor shall determine that an emergency exists in respect to food or
28 fuel or any other common necessity of life, including the providing of shelter, it shall be a
29 violation of this section for a person or his agent or employee to rent or sell or offer to rent or sell
30 a commodity at an unconscionable price within the area for which the state of emergency is
31 declared; or impose unconscionable prices for the rental or lease of a dwelling unit, including a
32 motel or hotel unit or other temporary lodging, or self-storage facility within the area for which
33 the state of emergency is declared. This prohibition remains in effect until the declaration expires
34 or is terminated. Upon a declaration of a state of disaster by the President, in which the disaster
35 area includes all or a portion of the commonwealth it is unlawful and a violation of this article
36 for a person or his agent or employee in this state to: rent or sell or offer to rent or sell a

37 commodity at an unconscionable price within the area for which the state of disaster is declared;
38 or impose unconscionable prices for the rental or lease of a dwelling unit, including a motel or
39 hotel unit or other temporary lodging, or self-storage facility within the area for which the state
40 of disaster is declared. This prohibition remains in effect until ten days after the declaration
41 expires or is terminated. A price increase approved by an appropriate government agency is not a
42 violation of this section. This section does not apply to sales by growers, producers, or
43 processors of raw or processed food products, except for retail sales of those products to the
44 ultimate consumer within the area of the declared state of emergency or disaster.

45 A violation of this section shall be punished by a fine of not more than \$5,000 or by
46 imprisonment for not more than 2½ years or both.