

2020 Regular Session

HOUSE BILL NO. 763

BY REPRESENTATIVES MCFARLAND AND DAVIS

CONSUMERS/PROTECTION: Provides relative to a gubernatorial declaration of an abnormal economic disruption

1 AN ACT

2 To enact R.S. 29:723(18) and (19) and 724(H), relative to the disruption of certain economic  
3 conditions; to provide for abnormal economic disruptions; to provide for definitions;  
4 to provide for certain declarations by the governor; to provide relative to the price  
5 of certain goods and services; to provide for exceptions; and to provide for related  
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 29:723(18) and (19) and 724(H) are hereby enacted to read as  
9 follows:

10 §723. Definitions

11 As used in this Chapter:

12 \* \* \*

13 (18) "Abnormal economic disruption" means a disruption or anticipated  
14 disruption to usual business conditions caused by a natural or man-made disaster or  
15 emergency resulting from a terrorist attack, war, strike, civil disturbance, tornado,  
16 earthquake, fire, flood, or any other natural disaster or man-made disaster.

17 (19) "Costs" includes any expense or expenditure directly or indirectly  
18 related to the sale of a good or provision of a service or the operation of the person's  
19 business.

1 §724. Powers of the governor

2 \* \* \*

3 H.(1) Upon the declaration of an abnormal economic disruption by the  
4 governor by proclamation or executive order, and continuing for a maximum of  
5 fifteen calendar days, unless extended by a subsequent declaration in any parish or  
6 municipality covered by the abnormal economic disruption, a person is prohibited  
7 from charging any other person a price for any of the following goods or services  
8 that is grossly in excess of the price generally charged for the same or similar goods  
9 or services in the usual course of business:

10 (a) Consumer food items.

11 (b) Repair or construction services.

12 (c) Emergency supplies.

13 (d) Medical supplies.

14 (e) Building materials.

15 (f) Motor vehicle fuels.

16 (g) Transportation, freight, and storage services.

17 (h) Housing.

18 (2) A declaration of an abnormal economic disruption by the governor may  
19 specify that only certain goods or services are covered by the prohibition provided  
20 by Paragraph (1) of this Subsection.

21 (3) A price increase is not grossly excessive if the increase was directly  
22 attributable to any of the following:

23 (a) Price increases in applicable regional, national, or international  
24 commodity markets.

25 (b) Pricing set forth in any pre-existing agreement, including stored and in-  
26 transit inventory.

27 (c) Additional costs imposed on the person by the supplier of the goods or  
28 services.

1           (d) Additional costs for labor, services, or materials used to provide the  
 2           goods or services, including costs of replacement inventory, additional costs to  
 3           transport goods or services, and additional labor charges.

4           (4) The provisions of R.S. 29:732 shall supersede any conflicting provisions  
 5           of this Subsection upon the declaration of a state of emergency implementing the  
 6           provisions of R.S. 29:732.

#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 763 Reengrossed

2020 Regular Session

McFarland

**Abstract:** Provides for a gubernatorial declaration of an abnormal economic disruption in order to prohibit excessive price increases for certain goods and services during an abnormal economic disruption.

Present law (R.S. 9:721 et seq.) provides for the La. Homeland Security and Emergency Assistance and Disaster Act which confers certain emergency powers upon the governor and the parish presidents in order to address homeland security and emergency preparedness for the state and to respond to natural and man-made catastrophes.

Present law provides that the governor is responsible for meeting the dangers to the state and people presented by emergencies or disasters, and authorizes the governor to issue executive orders, proclamations, and regulations which have the force and effect of law.

Present law (R.S. 29:732) provides, in part, that during a state of emergency as declared by the governor or as declared by the parish president, the prices charged or value received for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged for comparable goods and services in the same market area at or immediately before the time of the state of emergency, unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges and attendant business risks incurred in procuring or selling the goods or services during the state of emergency.

Present law provides that the prohibition from price gouging pursuant to present law is effective for an initial period not to exceed 30 days pursuant to the initial declared state of emergency as referenced in present law (R.S. 29:724) and shall be renewed only by specific reference in any subsequent proclamations.

Proposed law retains present law and further authorizes a gubernatorial declaration of an abnormal economic disruption in order to prohibit excessive price increases for certain goods and services during an abnormal economic disruption.

Proposed law defines "abnormal economic disruption" and "costs".

Proposed law provides that the gubernatorial declaration may specify certain goods or services which are covered by the prohibition.

Proposed law provides that a price increase is not grossly excessive if the increase was directly attributable to any of the following:

- (1) Price increases in applicable regional, national, or international commodity markets.
- (2) Pricing set forth in any pre-existing agreement, including stored and in-transit inventory.
- (3) Additional costs imposed on the person by the supplier of the goods or services.
- (4) Additional costs for labor, services, or materials used to provide the goods or services, including costs of replacement inventory, additional costs to transport goods or services, and additional labor charges.

Proposed law provides that the provisions of present law (R.S. 29:732) regarding price gouging shall supercede any conflicting provisions of proposed law upon the implementation of present law by the declaration of a state of emergency.

(Adds R.S. 29:723(18) and (19) and 724(H))