

Regular Session, 2013

HOUSE BILL NO. 310

BY REPRESENTATIVE HARRIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HOMELAND SECURITY: Provides relative to price gouging during declared states of emergency

1 AN ACT

2 To amend and reenact R.S. 14:329.6(A)(9) and R.S. 29:732(A), relative to price gouging;
3 to provide for the burden of proof relative to the increase of prices charged for goods
4 and services sold during a state of emergency; to provide for certain requirements to
5 prove the necessity for the price charged or value received for goods and services;
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 14:329.6(A)(9) is hereby amended and reenacted to read as follows:

9 §329.6. Proclamation of state of emergency; conditions therefor; effect thereof

10 A. During times of great public crisis, disaster, rioting, catastrophe, or
11 similar public emergency within the territorial limits of any municipality or parish,
12 or in the event of reasonable apprehension of immediate danger thereof, and upon
13 a finding that the public safety is imperiled thereby, the chief executive officer of any
14 political subdivision or the district judge, district attorney, or the sheriff of any parish
15 of this state, or the public safety director of a municipality, may request the governor
16 to proclaim a state of emergency within any part or all of the territorial limits of such
17 local government. Following such proclamation by the governor, and during the
18 continuance of such state of emergency, the chief law enforcement officer of the
19 political subdivision affected by the proclamation may, in order to protect life and

1 property and to bring the emergency situation under control, promulgate orders
2 affecting any part or all of the territorial limits of the municipality or parish:

3 * * *

4 (9) Prohibiting the sale or offer for sale of goods or services within the
5 designated emergency area for value exceeding the prices ordinarily charged for
6 comparable goods and services in the same market area at, or immediately before,
7 the time of the state of emergency, unless the seller demonstrates by clear and
8 convincing evidence that the price of charged or value received by the seller is
9 attributable to fluctuation in the applicable commodity markets, applicable regional
10 or national market trends, or to reasonable expenses and a charge for any attendant
11 business risk in addition to the cost of the goods and services which necessarily are
12 incurred in procuring or selling the goods and services during the state of emergency.
13 either of the following:

- 14 (a) The cost of replacing the goods incurred by the seller.
- 15 (b) Increases in the expenses, charges, and attendant business risks incurred
16 in procuring or selling the goods and services during the state of emergency.

17 * * *

18 Section 2. R.S. 29:732(A) is hereby amended and reenacted to read as follows:

19 §732. Price gouging; prohibited

20 A. During a state of emergency as declared by the governor or as declared
21 by the parish president, the prices charged or value received for goods and services
22 sold within the designated emergency area may not exceed the prices ordinarily
23 charged for comparable goods and services in the same market area at or
24 immediately before the time of the state of emergency, unless the seller demonstrates
25 by clear and convincing evidence that the price charged or value received by the
26 seller is attributable to fluctuations in applicable commodity markets, fluctuations
27 in applicable regional or national market trends, the cost of replacing the goods
28 incurred by the seller or to reasonable expenses and expenses, charges, and attendant
29 business risk incurred in procuring or selling the goods or services during the state

1 of emergency. Notwithstanding any other provision of law to the contrary, it shall
 2 not be deemed a violation of this Section if the prices charged for goods and services
 3 sold within the designated emergency area by an individual in the same market area,
 4 at or immediately before the time of the emergency, have not changed except as
 5 allowed herein during a state of emergency declared in accordance with this Section.

6 * * *

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)]

Harris

HB No. 310

Abstract: Provides for the burden of proof and requirements for increasing prices charged or value received for goods and services sold during a state of emergency.

Present law authorizes certain local officials to request the governor to proclaim a state of emergency during times of public emergency for all or parts of a municipality or parish and further provides that the proclamation authorizes the chief law enforcement officer to promulgate orders affecting any part or all of the municipality or parish.

Present law authorizes the chief law enforcement officer to prohibit the prices charged or value received for goods and services sold during a declared state of emergency to exceed the prices ordinarily charged for comparable goods and services immediately before the time of the state of emergency unless the price is attributable to fluctuations in applicable commodity markets or regional or national market trends or the reasonable expenses and charges incurred in procuring or selling the goods or services during the state of emergency.

Proposed law retains present law except that the seller must prove by clear and convincing evidence that the price charged or value received is attributable to the seller's cost of replacing the goods or increase in the expenses incurred in procuring or selling the goods and services during the state of emergency.

Present law prohibits the prices charged or value received for goods and services sold during a declared state of emergency by the governor or parish president to exceed the prices ordinarily charged for comparable goods and services immediately before the time of the state of emergency unless the price is attributable to fluctuations in applicable commodity markets or regional or national market trends or the reasonable expenses and charges incurred in procuring or selling the goods or services during the state of emergency.

Proposed law prohibits the prices charged or value received for goods and services sold during a declared state of emergency by the governor or parish president to exceed the prices ordinarily charged for comparable goods and services immediately before the time of the state of emergency unless the seller demonstrates by clear and convincing evidence that the price charged or value received is attributable to the seller's cost of replacing the goods or the increase in expenses, charges, and attendant business risk incurred in procuring or selling the goods or services during the state of emergency.

(Amends R.S. 14:329.6(A)(9) and R.S. 29:732(A))