

SECOND REGULAR SESSION

# SENATE BILL NO. 857

91ST GENERAL ASSEMBLY

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INTRODUCED BY SENATOR DOUGHERTY.

Pre-filed December 28, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

3626S.011

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## AN ACT

To amend chapter 407, RSMo, by adding thereto two new sections relating to consumer protection during a state of emergency.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 407, RSMo, is amended by adding thereto two new sections, to be known as sections 407.725 and 407.727, to read as follows:

**407.725. For the purposes of sections 407.725 to 407.727, the following terms shall mean:**

**(1) "Advertisement", the attempt by publication, dissemination, solicitation, circulation or any other means to induce, directly or indirectly, any person to purchase, rent or lease any necessity;**

**(2) "Consumer", any person who purchases, may purchase or is solicited for purchase of merchandise;**

**(3) "Excessive price", a price that exceeds by ten percent or greater the seller's retail price immediately prior to the onset of any conditions that prompt a declaration of a state of emergency;**

**(4) "Necessity", includes any materials and services related to, but not limited to, food, fuel, water, energy, medical treatment, construction, repair and transportation;**

**(5) "Person", the same meaning used in section 407.010;**

**(6) "Sale", any sale, rental, lease, offer for sale, rental or lease, or attempt to sell, rent or lease any necessity;**

**(7) "State of emergency", a temporary condition triggered by a**

**declaration of emergency, including but not limited to an emergency declared solely for the purposes of this section by the governor which may encompass either all or part of the state.**

**407.727. 1. Except as provided in subsection 2 of this section, any person charging an excessive price for any necessity in connection with the advertisement or sale of that necessity during a state of emergency commits price gouging.**

**2. Any person shall have an affirmative defense if that person produces written documentation that an excessive price for a necessity was charged due to:**

**(1) An increase in the cost to the person to obtain that necessity; and**

**(2) That such increase is not within that person's control.**

**Upon request of the attorney general or local prosecuting attorney, the person shall provide written documentation within twenty-four hours after receiving the request. Failure to provide written documentation within twenty-four hours of request for good cause will not be an absolute bar to raising the affirmative defense.**

**3. Any person who engages in price gouging as described in subsection 1 of this section is liable for three times the amount that the person unfairly received for each transaction.**

**Bill** ✓  
**Copy**