

BILL ANALYSIS

C.S.H.B. 70
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law makes post-disaster price gouging a violation of the Deceptive Trade Practices Act. However, the statute sets no threshold or definition of what constitutes price-gouging. C.S.H.B. 70 defines what is an unconscionable price and lays out a procedure to prevent price-gouging after a disaster. It would be illegal to price an essential good or service 20% more than it cost immediately before the disaster. The substitute provides for exceptions to this, including goods and services whose prices genuinely rose more than 20% because of the disaster.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 70 defines "essential consumer good or service," and excludes a government entity from the definition of "merchant" or "wholesaler."

C.S.H.B. 70 prohibits the sale of an essential good or service in the area for a price 20% more than it cost immediately before the abnormal disruption. A violation of this would constitute a false, misleading, or deceptive act or practice and would be subject to action by the consumer protection division of the attorney general's office.

It would be an affirmative defense to liability if the price of the seller's essential good or service increased by more than 20% due to increased costs to the merchant or wholesaler, whether those costs were related or unrelated to the market disruption. Further clarification notes that if the price is attributable to a traditionally high period of demand or a special event, it is not considered unconscionable. Also exempted from this Act are services monitored by the Public Utility Commission of Texas, or provided by electric and gas utilities.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original by removing the provisions regarding unconscionable rates for hotel rooms.

The substitute clarifies that it is not unconscionable for merchants and wholesalers to charge more for essential goods and services if the price can be attributed to a special event or traditionally high period of demand.

The substitute exempts a service that is monitored by the Public Utility Commission, provided by an electric or gas utility, or an electric provider, all of which are defined by the Utilities Code.