

By: Leibowitz

H.B. No. 70

A BILL TO BE ENTITLED

AN ACT

relating to restrictions on the prices of certain consumer goods and services during an abnormal disruption of the market.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 4, Business & Commerce Code, is amended by adding Chapter 51 to read as follows:

CHAPTER 51. RESTRICTED PRICING DURING ABNORMAL DISRUPTION OF MARKET

Sec. 51.001. DEFINITIONS. In this chapter:

(1) "Essential consumer good or service" means a good or service that is purchased or provided primarily for personal, family, or household purposes and that is necessary for the health, safety, or welfare of a consumer. The term includes residential construction.

(2) "Merchant" or "wholesaler" does not include a governmental entity.

Sec. 51.002. UNCONSCIONABLE PRICES PROHIBITED; DETERMINATION OF UNCONSCIONABLE PRICE. (a) If an abnormal disruption of the market for any consumer good or service occurs in an area, a merchant or wholesaler may not sell or offer for sale an essential consumer good or service in the area for a price that is unconscionably excessive.

(b) Except as otherwise provided by this subsection, a price charged by a merchant or wholesaler for an essential consumer good

1 or service is unconscionably excessive as a matter of law if the  
2 price exceeds by 20 percent or more the price at which the good or  
3 service was sold or offered for sale by the merchant or wholesaler  
4 in the usual course of business, or was readily obtainable by  
5 consumers in the trade area, immediately before the abnormal  
6 disruption of the market that prevents essential consumer goods or  
7 services from being readily available. The price for a room in a  
8 hotel, as defined by Section 156.001, Tax Code, is unconscionably  
9 excessive as a matter of law if the price exceeds the daily room  
10 rate posted as provided under Section 2155.001, Occupations Code.

11 (c) A violation of this section is considered a false,  
12 misleading, or deceptive act or practice for purposes of Section  
13 17.46(a), and is subject to action only by the consumer protection  
14 division of the attorney general's office as provided by Section  
15 17.46(a).

16 (d) It is an affirmative defense to liability under this  
17 section that the price charged by the merchant or wholesaler is:

18 (1) attributable to additional costs imposed by the  
19 merchant's or wholesaler's suppliers or otherwise necessarily  
20 incurred in procuring the goods or providing the services during  
21 the abnormal disruption of the market; or

22 (2) the result of increased costs unrelated to the  
23 abnormal disruption of the market.

24 SECTION 2. This Act takes effect September 1, 2007.