

BILL ANALYSIS

C.S.H.B. 24
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law makes postdisaster 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 24 prohibits selling an essential consumer good or service at an unconscionably excessive price during an abnormal market disruption and establishes as unconscionably excessive a price that is 20 percent above a normal price immediately before the disruption, with certain exceptions.

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. 24 amends the Business & Commerce Code to prohibit a merchant or wholesaler from selling or offering for sale at an unconscionably excessive price any essential consumer good or service during an abnormal disruption of the market for any consumer good or service in an area. The bill establishes as unconscionably excessive a price that is 20 percent or more higher than the merchant's or wholesaler's price in the usual course of business, or 20 percent or more higher than the price at which the product or service was readily obtainable by consumers in the trade area immediately before the market disruption. The bill defines "essential consumer good or service" and establishes that "merchant" or "wholesaler" does not include a governmental entity.

C.S.H.B. 24 specifies that a price is not unconscionably excessive if the higher price is attributable to and consistent with the price charged during a special event or traditional high demand period unrelated to the market disruption. The bill provides an affirmative defense to liability if the higher price is attributable to costs imposed by a supplier, necessary expenses involved in procuring the goods or providing the services during the market disruption, or increased costs unrelated to the market disruption.

C.S.H.B. 24 provides that to charge an unconscionably excessive price during an abnormal disruption of the market is a deceptive trade practice, subject to action by the attorney general's office or by a county or district attorney having jurisdiction. The bill exempts a service monitored by the Public Utility Commission of Texas or a service provided by certain electric and gas utilities from the bill's provisions.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 24 differs from the original by adding that a county or district attorney with jurisdiction may take action against a violation involving unconscionably excessive pricing.