

1 **H. B. 4620**

2  
3 (By Delegates Manchin, Longstreth, Hunt and Skinner)

4  
5 (Originating in the Committee on the Judiciary)

6  
7 [February 21, 2014]

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9  
10 A BILL to amend and reenact §46A-6J-3 of the Code of West Virginia,  
11 1931, as amended, relating to protection of consumers from  
12 price gouging and unfair trade practices; and lowering  
13 maximum allowed price increases on the sale of certain goods  
14 and services following establishment of a "state of  
15 emergency."

16 *Be it enacted by the Legislature of West Virginia:*

17 That §46A-6J-3 of the Code of West Virginia, 1931, as  
18 amended, be amended and reenacted, to read as follows:

19 **ARTICLE 6J. PROTECTION OF CONSUMERS FROM PRICE GOUGING AND UNFAIR**  
20 **PRICING PRACTICES DURING AND SHORTLY AFTER A STATE OF**  
21 **EMERGENCY.**

22 **§46A-6J-3. Prohibited unfair pricing practices.**

23 (a) Upon the declaration of a state of emergency and  
24 continuing for the existence of the state of emergency or for

1 thirty days following the declaration, whichever period is longer,  
2 it is unlawful for any person, contractor, business, or other  
3 entity to sell or offer to sell to any person in the area subject  
4 to the declaration any consumer food items, essential consumer  
5 items, goods used for emergency cleanup, emergency supplies,  
6 medical supplies, home heating oil, building materials, housing,  
7 transportation, freight and storage services, or gasoline or other  
8 motor fuels for a price greater than ~~ten~~ three percent above the  
9 price charged by that person for those goods or services on the  
10 tenth day immediately preceding the declaration of emergency,  
11 unless the increase in price is directly attributable to additional  
12 costs imposed on the seller by the supplier of the goods or  
13 directly attributable to additional costs for labor or materials  
14 used to provide the services: *Provided*, That in those situations  
15 where the increase in price is attributable to additional costs  
16 imposed by the seller's supplier or additional costs of providing  
17 the good or service during the state of emergency, the price is no  
18 greater than ~~ten~~ three percent above the total of the cost to the  
19 seller plus the markup customarily applied by the seller for that  
20 good or service in the usual course of business on the tenth day  
21 immediately preceding the declaration: *Provided, however*, That  
22 where a supplier of gasoline or other motor fuels cannot determine  
23 their daily costs, the supplier may sell gasoline or other motor  
24 fuels to distributors on any day at a rate not to exceed the  
25 average of the Oil Price Information Service's average wholesale

1 rack price for that product at the Montvale/Roanoke, Virginia,  
2 Fairfax, Virginia and Pittsburgh, Pennsylvania wholesale racks for  
3 the previous day.

4 (b) Upon the declaration of a state of emergency, and for a  
5 period of one hundred eighty days following that declaration, it is  
6 unlawful for any contractor to sell or offer to sell any repair or  
7 reconstruction services or any services used in emergency cleanup  
8 in the area subject to the declaration for a price greater than  
9 ~~ten~~ three percent above the price charged by that person for those  
10 services on the tenth day immediately preceding the declaration,  
11 unless the increase in price was directly attributable to  
12 additional costs imposed on it by the supplier of the goods or  
13 directly attributable to additional costs for labor or materials  
14 used to provide the services: *Provided*, That in those situations  
15 where the increase in price is attributable to the additional costs  
16 imposed by the contractor's supplier or additional costs of  
17 providing the service, the price is no greater than ~~ten~~ three  
18 percent above the total of the cost to the contractor plus the  
19 markup customarily applied by the contractor for that good or  
20 service in the usual course of business on the tenth day  
21 immediately preceding to the declaration of the state of emergency.

22 (c) Any business offering an item for sale at a reduced price  
23 ten days immediately prior to the declaration of the state of  
24 emergency may use the price at which it usually sells the item to  
25 calculate the price pursuant to subsection (a) or (b) of this

1 section.

2           (d) The price restrictions imposed by this article may be  
3 limited or terminated by proclamation of the Governor.

NOTE: The purpose of this bill is to lower the amount the prices of goods and services can be increased for a period following the establishment of a state of emergency.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.