



# News Release

OFFICE OF ATTORNEY GENERAL ALAN WILSON

STATE OF SOUTH CAROLINA

FOR IMMEDIATE RELEASE

Oct. 5, 2015

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## South Carolina Attorney General Alan Wilson Announces Price Gouging Statute in Full Effect

(COLUMBIA, SC) – South Carolina Attorney General Alan Wilson reminded South Carolinians that the price gouging statute is in effect upon notice that Governor Haley issued a state of emergency.

*“As we continue to recover from the catastrophic damage caused to our state, we will see many neighbors helping each other rebuild. However, we may also see some looking to unfairly take advantage of the situation through price gouging of food, gasoline, lodging, water and any other commodities as defined by the statute. Pursuant to state law, price gouging constitutes a criminal violation and an unfair trade practice.*

*I urge citizens to remain vigilant and notify my office immediately if you believe you have witnessed or are aware of price gouging. Please email any examples or documentation to [info@scag.gov](mailto:info@scag.gov); tweet photos or examples tagging @SCPriceGouging; or call 803-737-3953 if you have witnessed a likely violation.”*

The price gouging law (SC 39-5-145) is a general prohibition on unconscionable prices during times of disaster. It is in effect for the next 15 days. Price gougers can be charged for excessive pricing, a misdemeanor offense punishable with a \$1,000 fine and/or 30 days in jail.

The language of the price gouging statute and a link to a related 2014 Attorney General’s office opinion is attached below.

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**OPINION:** <http://www.scag.gov/wp-content/uploads/2014/09/Barfield-L.-OS-9785-9-5-2014-00437404xD2C78.pdf>

**SECTION 39-5-145.** Price gouging during emergency; definitions; penalty; evidence of

knowledge or intent.

(A) As used in this section:

(1) "Abnormal disruption of the market" means a change in the market for a commodity in a part of South Carolina, whether actual or imminently threatened, resulting from stress of weather, forces of nature, failure or shortage of electric power or other source of energy, strike, civil disorder, or other cause that constitutes the basis for an out-of-state declaration.

(2) "Commodity" means goods, services, materials, merchandise, supplies, equipment, resources, or other articles of commerce, and includes, without limitation, food, water, ice, chemicals, petroleum products, and lumber essential for consumption or use as a direct result of a declared state of emergency.

(3) "Notice of an abnormal disruption of the market" means notice given by the South Carolina Attorney General of an abnormal disruption of the market.

(4) "Out-of-state declaration" means a declaration of a state of emergency, state of disaster, or similar declaration by the President of the United States.

(5)(a) "Unconscionable price" means an amount charged which:

(i) represents a gross disparity between the price of the commodity or rental or lease of a dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility that is the subject of the offer or transaction and the average price at which that commodity or dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility was rented, leased, sold, or offered for rent or sale in the usual course of business during the thirty days immediately before a declaration of a state of emergency, and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of the dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility, or local, regional, national, or international market trends; or

(ii) grossly exceeds the average price at which the same or similar commodity, dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility was readily obtainable in the trade area during the thirty days immediately before a declaration of a state of emergency, and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of the dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility, or local, regional, national, or international market trends.

(b) It is prima facie evidence that a price is unconscionable if it meets the definition of item (i) or (ii).

(B)(1) Upon a declaration of a state of emergency by the Governor, it is unlawful and a violation of this article for a person or his agent or employee to:

(a) rent or sell or offer to rent or sell a commodity at an unconscionable price within the area for which the state of emergency is declared; or

(b) impose unconscionable prices for the rental or lease of a dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility within the area for which the state of emergency is declared.

(2) This prohibition remains in effect until the declaration expires or is terminated.

(C)(1) Upon a declaration of a state of disaster by the President, in which the disaster area includes all or a portion of the State of South Carolina, it is unlawful and a violation of this article for a person or his agent or employee in this State to:

(a) rent or sell or offer to rent or sell a commodity at an unconscionable price within the area for which the state of disaster is declared; or

(b) impose unconscionable prices for the rental or lease of a dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility within the area for which the state of disaster is declared.

(2) This prohibition remains in effect until the declaration expires or is terminated.

(D) When notice of an abnormal disruption of the market is given, it is unlawful and a violation of this article for a person or his agent or employee to:

(1) rent or sell or offer to rent or sell a commodity at an unconscionable price in any area of this State where there is an abnormal disruption in the market; or

(2) impose unconscionable prices for the rental or lease of a dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility in any area of this State where there is an abnormal disruption in the market.

(E) When notice of an abnormal disruption of the market is given, the prohibitions in this section are in effect for fifteen days unless notice of an abnormal disruption in the market is earlier retracted or renewed. The Attorney General may renew a notice of abnormal disruption of the market for an unlimited number of successive fifteen-day periods.

(F) A trade association, corporation, or partnership may register as an agent for the purpose of being notified when the Attorney General gives, retracts, or renews notice of an abnormal disruption of the market. A trade association may designate up to three persons to be notified on behalf of the organization's members. The trade association, corporation, or partnership is responsible for maintaining current information for the designated agents. The Attorney General's Office shall notify the registered agents simultaneous to giving, retracting, or renewing notice of an abnormal disruption of the market.

(G) A price increase approved by an appropriate government agency is not a violation of this section.

(H) A price increase that reflects the usual and customary seasonal fluctuation in the price of the subject essential commodity or the rental or lease of a dwelling unit or self-storage facility is not a violation of this section.

(I) This section does not apply to sales by growers, producers, or processors of raw or processed food products, except for retail sales of those products to the ultimate consumer within the area of the declared state of emergency or disaster.

(J) This section does not preempt the powers of local government, except that the evidentiary standards contained in this section are the sole evidentiary standards to be adopted by ordinance of a local government to restrict price gouging. In the event a local government declares a state of emergency or disaster or experiences an abnormal disruption of the market in which the area includes all or a portion of the area under the local government's jurisdiction, and restricts price gouging during that time, the governmental entity must notify the Governor's Office of the declaration. The Governor's Office must notify registered agents simultaneously at the time of the declaration and also at its expiration or termination.

(K) In addition to all other remedies provided in this article, a person who wilfully and knowingly violates this section is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than one thousand dollars or imprisoned not more than thirty days, or both.

(L) A person who is charged with committing an action in violation of this section may present evidence relating to, but not limited to, his knowledge or intent when committing the action to rebut any presumption or evidence of violation of this section.

HISTORY: 2002 Act No. 339, Section 21, eff July 2, 2002; 2006 Act No. 374, Section 1, eff June 14, 2006.