

# SENATE BILL REPORT

## ESHB 2419

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As Reported By Senate Committee On:  
Labor, Commerce & Financial Institutions, February 28, 2002

**Title:** An act relating to price gouging during significant disruption, emergency, or disaster.

**Brief Description:** Prohibiting price gouging during significant disruption, emergency, or disaster.

**Sponsors:** House Committee on Select Committee on Community Security (originally sponsored by Representatives Simpson, Conway, Morris, Cooper, Schmidt, Kirby, Lovick, Wood, Haigh, Kenney, Chase, Schual-Berke and Jackley; by request of Governor Locke and Attorney General).

**Brief History:**

**Committee Activity:** Labor, Commerce & Financial Institutions: 2/25/02, 2/28/02 [DPA, DNP].

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### SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

**Majority Report:** Do pass as amended.

Signed by Senators Prentice, Chair; Keiser, Vice Chair; Fairley, Franklin, Gardner, Rasmussen, Regala and Winsley.

**Minority Report:** Do not pass.

Signed by Senators Benton, Deccio, Hochstatter and Honeyford.

**Staff:** Dave Cheal (786-7576)

**Background:** It is not unusual for vital products to become in short supply during periods of significant disruption. During the recent September crisis, gasoline prices spiked to \$5 per gallon in a midwestern state, without any significant market justification. Food, fuel and energy resources are examples of products that could be subjected to price manipulation during temporary periods of abnormal market conditions, brought about by civil disruption, war or terrorist act.

**Summary of Amended Bill:** Unjust enrichment from price gouging is prohibited and made subject to civil remedies. Essential consumer goods, emergency supplies and various other vital products and services may not be sold at clearly excessive prices during abnormal market conditions caused by emergency, or disaster as declared by the Governor. It is a defense that unique acquisition or transportation expenses were incurred by the seller. Each prohibited sale is a separate violation.

"Abnormal market conditions" means a significant market disruption caused by war, terrorist act, civil disorder, military action, extreme weather conditions or other natural disaster.

"Essential consumer goods or services" means goods or services that are vital and necessary for the health, safety and welfare of consumers, including food, fuel and medical services.

A price that exceeds the price at which similar goods or services were readily obtainable by consumers immediately before the disruption or disaster by 15 percent and not the result of unusual procurement costs is presumed excessive.

An increase in price is not unlawful if it is the result of reasonable expenses in addition to the prior prices that have occurred during the time of emergency. In the case of fuel, reasonable expenses include increases in price resulting from supply disruptions or reductions, when such increases in retail price are designed to reduce demand by consumers.

It is an affirmative defense that the violation of the price limitation was unintentional, voluntarily corrected, and a program of reimbursement initiated.

**Amended Bill Compared to Substitute Bill:** The Senate amendment restores the application of the bill to natural disasters. In the case of fuel, reasonable expenses include increases in price commensurate with supply disruptions or reductions experienced by the retailer when such increase in retail price are designed to reduce demand by consumers.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The state needs to have this protection of consumers in place. Once a disaster strikes, it's too late. Many states did see price gouging on essential goods and services following last September's attack. The same protection is needed for natural disaster as for terrorist attacks. That portion of the bill should be restored.

**Testimony Against:** The bill still does not address all the problems of independent gasoline dealers, which includes possible reduced allocation of supply during times of crisis.

**Testified:** Christine Gregoire, Attorney General (pro); Dick Van Wagenen, Governor's Policy Office (pro); Charlie Brown, WA Oil Markets Assn. (con); T.K. Bentler, Neighborhood Stores (con).