

Chapter 09**PRICE GOUGING****Sections:**

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27.0901 Purpose

It is the public policy of this Territory to protect its citizens from price gouging during states of disaster. The Territory also realizes the complexity in regulating prices while not defeating the ability of the market in goods and services from bringing supply back in balances with demand and not defeating the function of price in allocating scarce resources.

History: 2006, PL 29-22.

27.0902 Definitions.

(a) "State of emergency" means a natural or manmade disaster or emergency resulting from an earthquake, hurricane, flood, riot, fire, storm, tsunami, or civil disturbance as declared by the President of the United States or the Governor of American Samoa.

(b) "Consumer food item" means any article that is used or intended for use for food, drink, confection, or condiment by a person or animal.

(c) "Repair or reconstruction services" means services performed by any person for repairs to residential or commercial property of any type that is damaged as a result of a disaster.

(d) "Emergency supplies" includes, but is not limited to, water, flashlights, radios, batteries, candles, blankets, soaps, diapers, temporary shelters, tape, toiletries, plywood, nails, and hammers.

(e) "Medical supplies" includes, but is not limited to, prescription and nonprescription medications, bandages, gauze, isopropyl alcohol, and antibacterial products.

(f) "Building materials" means lumber, construction tools, windows, and anything else used in the building or rebuilding of property.

(g) "Gasoline" means any fuel used to power a motor vehicle or power tool.

(h) "Housing" means any rental housing or dwelling units leased on a month-to-month term.

(i) "Gross disparity" means a significant difference in price currently charged prior to the declaration of state of emergency and the price being charged during the declaration period.

(j) "Unconscionable prices" means an increase in the price of commodities which is greater in amount when compared to the most recent consumer price index prepared by the American Samoa Government, Department of Commerce.

(k) “Competent authority” means the Governor of American Samoa, the President of the United States, or other individual otherwise by the law with the power to declare a state of emergency.

History: 2006, PL 29-22.

27.0903 Prohibited unfair pricing practices.

(a) Upon a declaration of a state of emergency, and for a period of thirty (30) days following that declaration, it is unlawful for any person, contractor, business, or other entity to sell, rent or offer to sell or rent any consumer food items or goods, emergency supplies, medical supplies, building materials, housing, gasoline, or any other goods or services necessary in an emergency response for a price of more than ten percent (10%) above the price charged by that person, contractor, business or other entity for those goods or services immediately prior to the declaration of a state of emergency. However, a greater price increase shall not be unlawful if that person can prove that the increase in price was directly attributable to additional costs imposed on it by the supplier of the goods, or directly attributable to additional costs for labor or materials used to provide the services, provided that in those situations where the increase in price is attributable to additional costs imposed by the supplier or additional costs of providing the goods or services during the state of emergency, the price represents no more than ten percent (10%) above the total of the cost to the seller plus the markup customarily applied by the seller for that good or service in the usual course of business immediately prior to the onset of the state of emergency.

(b) Prior to the occurrence and upon a declaration of a state of emergency, and for a period of one hundred eighty (180) days following that declaration, it is unlawful for any person, contractor, business, or other entity to sell or offer to sell any repair or reconstruction services or any other services used in emergency cleanup for a price of more than ten percent (10%) above the price charged by that person, contractor, business or other entity for those goods or services immediately prior to the declaration of a state of emergency. However, a greater price increase shall not be unlawful if that person can prove that the increase in price was directly attributable to additional costs imposed on it by the supplier of the goods, or directly attributable to additional costs for labor or materials used to provide the services, provided that in those situations where the increase in price is attributable to additional costs imposed by the supplier or additional costs of providing the good or service during the state of emergency, the price represents no more than ten percent (10%) above the total of the cost to the seller plus the markup customarily applied by the seller for that good or service in the usual course of business immediately prior to the onset of the state of emergency.

(c) the amount charged represents a gross disparity between the price of the commodity or rental or lease of any dwelling unit that is the subject of the offer or transaction and the average price at which that commodity or dwelling unit was rented, leased, sold or offered for rent or sale in the usual course of business during this period

immediately prior to 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 any dwelling unit, or national or international market trends.

(d) The provisions of this section may be extended for additional thirty (30) day periods by the Governor of American Samoa if deemed necessary to protect the lives, property, or welfare of the citizens.

(e) Any business offering an item for sale at a reduced price immediately prior to the declaration of a state of emergency may use the price at which they usually sell the item to calculate the price pursuant to subsection (a) or (b).

History: 2006, PL 29-22.

27.0904 Penalties and remedies.

(a) In addition to all other remedies provided by the American Samoa Code Annotated, the Court shall impose a civil penalty of not more than \$1,000 per violation with an aggregate total not to exceed \$25,000 for any 24-hour period against any person, contractor, business or other entity who violates the provisions of this chapter. An additional suspension of license after the second offense shall be imposed. All penalties assessed and collected shall be transferred to the Bureau of Consumer Protection of the Department of Legal Affairs to further consumer protection efforts.

(b) Any person who is found to have violated this chapter shall be guilty of a Class A misdemeanor for each violation.

(c) The remedies and penalties provided by this section are cumulative to each other and the remedies and penalties available under all other laws of American Samoa.

(d) It is a violation of this chapter if a person offers for sale or rent any commodity at an unconscionable price during this period immediately preceding and during the effectiveness of a declaration of a state of emergency declared by a competent authority.

(e) Nothing in this chapter creates a private cause of action in favor of any person damaged by a violation of this chapter.

History: 2006, PL 29-22.

27.0905 Enforcement.

Any violation of this chapter may be enforced by the Office of the Attorney General.

History: 2006, PL 29-22.