

062722212

## HOUSE BILL NO. 1094

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the House Committee on Commerce and Labor  
on February 7, 2006)

(Patron Prior to Substitute—Delegate Amundson)

A BILL to amend the Code of Virginia by adding in Chapter 46 of Title 59.1 a section numbered 59.1-529.1, relating to enforcement of the Virginia Post-Disaster Anti-Price Gouging Act; emergency orders; penalties.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 46 of Title 59.1 a section numbered 59.1-529.1 as follows:

§ 59.1-529.1. Emergency orders; penalties.

A. Upon finding that during a time of disaster a supplier is selling, leasing, or licensing, or offering to sell, lease, or license, a necessary good or service within the area for which the state of emergency is declared at such an unconscionable price that such selling, leasing, or licensing, or offering to sell, lease, or license presents an imminent and substantial danger of endangering the public welfare by creating public panic or acute economic disruption, the Governor is authorized to issue, without hearing, an emergency order directing the supplier to reduce the price of the necessary good or service to the prevailing price in the local market. An emergency order shall not be issued until the supplier is given the opportunity to demonstrate that such price is not unconscionable as defined in § 59.1-527. Emergency orders shall be effective for a period determined by the Governor, not to exceed 30 days, and shall not be renewed. The issuance of an emergency order shall be considered a case decision as defined in § 2.2-4001. The confidentiality of all evidence, testimony, documents, or other results of investigations leading to issuance of the emergency order, including the names of the complainant and the person that is the subject of the investigation, shall be maintained.

B. The supplier to whom such emergency order is directed shall be notified by certified mail, return receipt requested, sent to the last known address of the supplier, or by personal delivery by an agent of the Governor. The notice of issuance of the emergency order shall include notice of the time and place of the opportunity for a hearing as provided in subsection C.

C. The Governor shall provide an opportunity for a hearing within 48 hours of the issuance of the emergency order, which hearing shall be before a hearing officer appointed by the Supreme Court in accordance with § 2.2-4020. The hearing officer may affirm, modify, amend, or cancel such emergency order.

D. If the supplier who has been issued such an emergency order is not complying with the terms thereof, the Governor may institute a proceeding in the appropriate circuit court for an injunction, mandamus, or other appropriate remedy compelling the person to comply with such order. The court may issue an injunction compelling compliance with the emergency order pending the hearing provided pursuant to subsection C.

E. Any supplier violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to subsection D shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,500. In determining the amount of any civil penalty to be assessed pursuant to this subsection, the court shall consider, in addition to such other factors as it may deem appropriate, the size of the supplier's business, the severity of the economic impact of the penalty on the supplier, and the seriousness of the violation. Any civil penalties assessed by a court shall be paid into the state treasury.

HOUSE SUBSTITUTE

HB1094H1