

HOUSE BILL No. 5156

October 9, 2001, Introduced by Reps. Kowall, Raczkowski, Bishop, Cassis, Koetje, Woronchak, Allen, Shackleton, Tabor, Vander Veen, Meyer, George, Stewart, Hager, Faunce, Richardville, Howell, Bovin, Voorhees, Spade, Daniels, Rich Brown, Whitmer, Middaugh, Bob Brown, Anderson, Hale, Ehardt, Mortimer, Neumann, Phillips and Birkholz and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 553.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 553. (1) DURING OR WITHIN 180 DAYS FOLLOWING A DECLARATION OF AN EMERGENCY OR MAJOR DISASTER IN THIS STATE BY THE
2 PRESIDENT OF THE UNITED STATES, A DECLARATION OF A STATE OF
3 DISASTER OR STATE OF EMERGENCY BY THE GOVERNOR, OR A DECLARATION
4 OF A LOCAL STATE OF EMERGENCY BY A CHIEF EXECUTIVE OFFICIAL OF A
5 COUNTY OR MUNICIPALITY, A PERSON THAT SELLS OR OFFERS TO SELL AN
6 ESSENTIAL COMMODITY AT A PRICE OF MORE THAN 10% ABOVE THE PRICE
7 ORDINARILY CHARGED FOR COMPARABLE GOODS OR SERVICES IMMEDIATELY
8 BEFORE THE DECLARED STATE OF EMERGENCY IS GUILTY OF A FELONY
9 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF
10 NOT MORE THAN \$20,000.00, OR BOTH. IT IS AN AFFIRMATIVE DEFENSE

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1 TO A PROSECUTION UNDER THIS SUBSECTION THAT THE INCREASE IN PRICE
2 OF AN ESSENTIAL COMMODITY THAT IS A GOOD IS DIRECTLY ATTRIBUTABLE
3 TO ADDITIONAL COSTS IMPOSED ON THE SELLER BY THE SUPPLIER OF THE
4 ESSENTIAL COMMODITY, OR THAT THE INCREASE IN PRICE OF AN ESSEN-
5 TIAL COMMODITY THAT IS A SERVICE IS DIRECTLY ATTRIBUTABLE TO
6 ADDITIONAL COSTS FOR LABOR OR MATERIALS USED TO PROVIDE THE SERV-
7 ICE, IF THE PRICE OF THAT GOOD OR SERVICE IS NOT MORE THAN 10%
8 ABOVE THE TOTAL OF THE COST TO THE SELLER PLUS THE MARKUP CUSTOM-
9 ARILY APPLIED BY THE SELLER FOR THAT GOOD OR SERVICE IN THE USUAL
10 COURSE OF BUSINESS IMMEDIATELY BEFORE THE ONSET OF THE STATE OF
11 EMERGENCY.

12 (2) DURING OR WITHIN 180 DAYS FOLLOWING A DECLARATION OF AN
13 EMERGENCY OR MAJOR DISASTER IN THIS STATE BY THE PRESIDENT OF THE
14 UNITED STATES, A DECLARATION OF A STATE OF DISASTER OR STATE OF
15 EMERGENCY BY THE GOVERNOR, OR A DECLARATION OF A LOCAL STATE OF
16 EMERGENCY BY A CHIEF EXECUTIVE OFFICIAL OF A COUNTY OR MUNICIPAL-
17 ITY, A CONTRACTOR THAT SELLS OR OFFERS TO SELL ANY REPAIR OR
18 RECONSTRUCTION SERVICE OR ANY SERVICE USED IN EMERGENCY CLEANUP
19 FOR A PRICE OF MORE THAN 10% ABOVE THE PRICE ORDINARILY CHARGED
20 BY THAT PERSON FOR THAT SERVICE IMMEDIATELY BEFORE THE DECLARED
21 STATE OF EMERGENCY IS GUILTY OF A FELONY PUNISHABLE BY IMPRISON-
22 MENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN
23 \$20,000.00, OR BOTH. IT IS AN AFFIRMATIVE DEFENSE TO A PROSECU-
24 TION UNDER THIS SECTION THAT IF THE INCREASE IN PRICE IS DIRECTLY
25 ATTRIBUTABLE TO ADDITIONAL COSTS IMPOSED ON THE CONTRACTOR BY THE
26 SUPPLIER OF GOODS INCLUDED IN THE SERVICE OR DIRECTLY
27 ATTRIBUTABLE TO ADDITIONAL COSTS FOR LABOR OR MATERIALS USED TO

1 PROVIDE THE SERVICE, IF THE PRICE OF THE SERVICE IS NOT MORE THAN
2 10% ABOVE THE TOTAL OF THE COST TO THE CONTRACTOR PLUS THE MARKUP
3 CUSTOMARILY APPLIED BY THE CONTRACTOR FOR THAT SERVICE IN THE
4 USUAL COURSE OF BUSINESS IMMEDIATELY BEFORE THE ONSET OF THE
5 STATE OF EMERGENCY.

6 (3) EACH SALE OR OFFER TO SELL IN VIOLATION OF SUBSECTION
7 (1) OR (2) IS A SEPARATE OFFENSE.

8 (4) AS USED IN THIS SECTION:

9 (A) "CHIEF EXECUTIVE OFFICIAL", "LOCAL STATE OF EMERGENCY",
10 "MUNICIPALITY", "STATE OF DISASTER", AND "STATE OF EMERGENCY"
11 MEAN THOSE TERMS AS DEFINED IN SECTION 2 OF THE EMERGENCY MANAGE-
12 MENT ACT, 1976 PA 390, MCL 30.402.

13 (B) "ESSENTIAL COMMODITY" MEANS ANY OF THE FOLLOWING:

14 (i) ITEMS OF FOOD OR DRINK FOR HUMANS OR OTHER ANIMALS.

15 (ii) GOODS OR SERVICES USED FOR EMERGENCY CLEANUP.

16 (iii) WATER, FLASHLIGHTS, RADIOS, BATTERIES, CANDLES, BLAN-
17 KETS, SOAP, DIAPERS, TEMPORARY SHELTERS, TAPE, TOILETRIES, PLY-
18 WOOD, NAIL, HAMMERS, OR OTHER EMERGENCY SUPPLIES.

19 (iv) PRESCRIPTION AND NONPRESCRIPTION MEDICATIONS, BANDAGES,
20 GAUZE, ISOPROPYL ALCOHOL, ANTIBACTERIAL PRODUCTS, AND OTHER MEDI-
21 CAL SUPPLIES.

22 (v) HOME HEATING FUEL OR GASOLINE OR OTHER MOTOR FUEL.

23 (vi) LUMBER, CONSTRUCTION TOOLS, WINDOWS, OR OTHER MATERIALS
24 USED IN THE BUILDING OR REBUILDING OF PROPERTY.

25 (vii) SERVICES PERFORMED BY ANY PERSON THAT CONTRACTS TO
26 MOVE, STORE, OR TRANSPORT PERSONAL OR BUSINESS PROPERTY OR RENTS
27 EQUIPMENT TO PERFORM 1 OR MORE OF THOSE SERVICES.