

SENATE BILL NO. 272

BY SENATORS HEITMEIER AND WALSWORTH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 14:329.6(A)(9) and to enact R.S. 29:732(E) and (F) and R.S. 51:422.1(C)(5), relative to fuel; to prohibit excessive fuel pricing during a declared state of emergency; to allow sales below costs during such time; to provide for definitions; to provide for civil and criminal penalties; to provide for exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:329.6(A)(9) is hereby amended and reenacted to read as follows:

§329.6. Proclamation of state of emergency; conditions therefor; effect thereof

A. During times of great public crisis, disaster, rioting, catastrophe, or similar public emergency within the territorial limits of any municipality or parish, or in the event of reasonable apprehension of immediate danger thereof, and upon a finding that the public safety is imperiled thereby, the chief executive officer of any political subdivision or the district judge, district attorney, or the sheriff of any parish of this state, or the public safety director of a municipality, may request the governor to proclaim a state of emergency within any part or all of the territorial limits of such local government. Following such proclamation by the governor, and during the continuance of such state of emergency, the chief law enforcement officer of the political subdivision affected by the proclamation may, in order to protect life and property and to bring the emergency situation under control, promulgate orders affecting any part or all of the territorial limits of the municipality or parish:

* * *

(9) Prohibiting the sale or offer for sale of goods or services within the

1 designated emergency area for value exceeding the prices ordinarily charged for
 2 comparable goods and services in the same market area at, or immediately before,
 3 the time of the state of emergency. ~~However, the value received may include, unless~~
 4 **the price of the seller is attributable to fluctuation in the applicable commodity**
 5 **markets, applicable regional or national market trends, or to** reasonable
 6 expenses and a charge for any attendant business risk in addition to the cost of the
 7 goods and services which necessarily are incurred in procuring **or selling** the goods
 8 and services during the state of emergency, ~~pursuant to the provisions of R.S. 29:701~~
 9 ~~through 716.~~

10 * * *

11 Section 2. R.S. 29:732(E) and (F) are hereby enacted to read as follows:

12 §732. Price gouging; prohibited

13 * * *

14 **E.(1) Notwithstanding any provision of this Section to the contrary, this**
 15 **Section shall apply to gasoline or diesel fuel of any grade or formula sold or**
 16 **offered for sale within the designated emergency area for ultimate use in the**
 17 **operation of motor vehicles, generators, power tools, or small engines.**

18 **(2) For purposes of this Subsection, the term "sale" shall include any**
 19 **transaction involving the transfer of gasoline or diesel fuel at the terminal until**
 20 **purchase by the ultimate consumer at a service station, convenience store or**
 21 **other fixed retail facility.**

22 **F. Nothing in this Section shall be construed so as to create a private**
 23 **cause of action in favor of any person damaged by a violation of this Section.**

24 Section 3. R.S. 51:422.1(C)(5) is hereby enacted to read as follows:

25 §422.1. Unfair sales of motor fuel; impairment of competition; exemptions; records
 26 to support exemptions

27 * * *

28 C. The provisions of Subsection B shall not apply in any of the following
 29 situations:

30 * * *

