

IN THE SENATE

SENATE BILL NO. 1041

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO CONSUMER PROTECTION; AMENDING SECTION 48-603, IDAHO CODE, TO RE-
2 VISE PROVISIONS REGARDING EXCESSIVE INCREASED PRICES FOR CERTAIN ITEMS
3 DURING AN EMERGENCY AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN
4 EMERGENCY.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 48-603, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 48-603. UNFAIR METHODS AND PRACTICES. The following unfair methods of
10 competition and unfair or deceptive acts or practices in the conduct of any
11 trade or commerce are hereby declared to be unlawful, where a person knows,
12 or in the exercise of due care should know, that he has in the past, or is:

13 (1) Passing off goods or services as those of another;

14 (2) Causing likelihood of confusion or of misunderstanding as to the
15 source, sponsorship, approval, or certification of goods or services;

16 (3) Causing likelihood of confusion or of misunderstanding as to affil-
17 iation, connection, or association with, or certification by, another;

18 (4) Using deceptive representations or designations of geographic ori-
19 gin in connection with goods or services;

20 (5) Representing that goods or services have sponsorship, approval,
21 characteristics, ingredients, uses, benefits, or quantities that they do
22 not have or that a person has a sponsorship, approval, status, affiliation,
23 connection, qualifications or license that he does not have;

24 (6) Representing that goods are original or new if they are deterio-
25 rated, altered, reconditioned, reclaimed, used, or secondhand;

26 (7) Representing that goods or services are of a particular standard,
27 quality, or grade, or that goods are of a particular style or model, if they
28 are of another;

29 (8) Disparaging the goods, services, or business of another by false or
30 misleading representation of fact;

31 (9) Advertising goods or services with intent not to sell them as adver-
32 tised;

33 (10) Advertising goods or services with intent not to supply reasonably
34 expectable public demand, unless the advertisement discloses a limitation
35 of quantity;

36 (11) Making false or misleading statements of fact concerning the rea-
37 sons for, existence of, or amounts of price reductions;

38 (12) Obtaining the signature of the buyer to a contract when it contains
39 blank spaces to be filled in after it has been signed;

40 (13) Failing to deliver to the consumer at the time of the consumer's
41 signature a legible copy of the contract or of any other document ~~which that~~

1 the seller or lender has required or requested the buyer to sign, and ~~which~~
2 that he has signed, during or after the contract negotiation;

3 (14) Making false or misleading statements of fact concerning the age,
4 extent of use, or mileage of any goods;

5 (15) Promising or offering to pay, credit or allow to any buyer or
6 lessee, any compensation or reward in consideration of his giving to the
7 seller or lessor the names of prospective purchasers or lessees, or other-
8 wise aiding the seller or lessor in making a sale or lease to another person,
9 if the earning of the rebate, discount or other value is contingent upon the
10 occurrence of an event subsequent to the time the buyer or lessee agrees to
11 buy or lease;

12 (16) Representing that services, replacements or repairs are needed if
13 they are not needed, or providing services, replacements or repairs that are
14 not needed;

15 (17) Engaging in any act or practice ~~which~~ that is otherwise misleading,
16 false, or deceptive to the consumer;

17 (18) Engaging in any unconscionable method, act or practice in the con-
18 duct of trade or commerce, as provided in section 48-603C, Idaho Code, pro-
19 vided, however, that the provisions of this subsection shall not apply to a
20 regulated lender as that term is defined in section 28-41-301, Idaho Code;

21 (19) (a) Taking advantage of a disaster or emergency declared by the
22 governor under chapter 10, title 46, Idaho Code, or the president of
23 the United States under the provisions of the disaster relief act of
24 1974, 42 U.S.C. ~~section~~ 5121 et seq., by selling or offering to sell ~~to~~
25 ~~the ultimate consumer~~ fuel or food, pharmaceuticals, or water for human
26 consumption at an exorbitant or excessive increased price to the ulti-
27 mate consumer; provided however, this subsection shall apply only to
28 the location and for the duration of the declaration of emergency. In
29 determining whether ~~a price~~ an increase in price to the ultimate con-
30 sumer is exorbitant or excessive, the court shall consider an increase
31 in the price of goods sold but shall not consider any increase in the
32 margin earned through such sales and, with respect to price increases,
33 shall take into consideration the facts and circumstances, including,
34 but not limited to:

35 (a*i*) ~~A comparison between the price paid by the alleged viola-~~
36 ~~tor for the fuel, food, pharmaceuticals, or water and the~~ The in-
37 creased price, if any, for which the alleged violator sold those
38 same items fuel, food, pharmaceuticals, or water to the ultimate
39 consumer immediately before and after the period specified by the
40 disaster or emergency declaration;

41 (b*ii*) Additional costs of doing business incurred by the alleged
42 violator and increased prices due to loss of sales or volume sold
43 because of the disaster or emergency; and

44 (c*iii*) The duration of the disaster or emergency declaration.

45 (b) Notwithstanding anything to the contrary contained elsewhere in
46 ~~the act~~ this chapter, no private cause of action exists under this sub-
47 section.

48 SECTION 2. An emergency existing therefor, which emergency is hereby
49 declared to exist, this act shall be in full force and effect on and after its
50 passage and approval.