WEST VIRGINIA CODE: §46a-6J-3

§46A-6J-3. Prohibited unfair pricing practices.

(a) Upon the declaration of a state of emergency or state of preparedness, and continuing for the existence of the state of emergency or state of preparedness, or for 30 days following the declaration, whichever period is longer, it is unlawful for any person, contractor, business, or other entity to sell or offer to sell to any person in the area subject to the declaration any consumer food items, essential consumer items, goods used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight and storage services, or gasoline or other motor fuels, for a price greater than 10 percent above the price charged by that person for those goods or services on the 10th day immediately preceding the declaration of emergency state of preparedness, unless the increase in price is directly attributable to additional costs imposed on the seller 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 seller's supplier or additional costs of providing the good or service during the state of emergency or state of preparedness, the price is no greater than 10 percent 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 on the 10th day immediately preceding the declaration: *Provided, however,* That where a supplier of gasoline or other motor fuels cannot determine its daily costs, the supplier may sell gasoline or other motor fuels to distributers on any day at a rate not to exceed the average of the Oil Price Information Service's average wholesale rack price for that product at the Montvale/Roanoke, Virginia, Fairfax, Virginia, and Pittsburgh, Pennsylvania, wholesale racks for the previous day.

(b) Upon the declaration of a state of emergency or state of preparedness, and for a period of 180 days following that declaration, it is unlawful for any contractor to sell or offer to sell any repair or reconstruction services or any services used in emergency cleanup in the area subject to the declaration for a price greater than 10 percent above the price charged by that person for those services on the 10th day immediately preceding the declaration, unless 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 the additional costs imposed by the contractor's supplier or additional costs of providing the service, the price is no greater than 10 percent above the total of the cost to the contractor plus the markup customarily applied by the contractor for that good or service in the usual course of business on the 10th day immediately preceding to the declaration of the state of emergency or state of preparedness.

(c) Any business offering an item for sale at a reduced price 10 days immediately prior to the declaration of the state of emergency or state of preparedness may use the price at which it

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usually sells the item to calculate the price pursuant to subsection (a) or (b) of this section.

(d) Whenever the Governor declares a state of preparedness, the provisions of this article only apply to those items or services specifically set forth in the proclamation.

(e) On the 15th day after the declaration of a state of emergency, and each 15th day thereafter for so long as the state of emergency persists, the Governor shall review the scope of goods to which this article applies and may issue a proclamation maintaining, limiting, terminating, or extending the price restrictions imposed by this article with respect to any categories of goods.

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