

367.374 Sale or rental of goods and services during declared state of emergency -- Fifteen-day prohibition against grossly excessive prices -- Additional fifteen-day extensions to protect citizens -- Application of section.

- (1) (a) When a Condition Red has been declared by the United States Department of Homeland Security under the Homeland Security Advisory System or the Governor has declared a state of emergency under KRS 39A.100, the Governor may implement this section by executive order for a period of fifteen (15) days from notification of implementation, as required by KRS 367.376. The order implementing this section shall be limited to the geographical area indicated in the declaration of emergency. The Governor may terminate or limit the scope of the order at any time.
 - (b) No person shall sell, rent, or offer to sell or rent, regardless of whether an actual sale or rental occurs, a good or service listed in this paragraph or any repair or reconstruction service for a price which is grossly in excess of the price prior to the declaration and unrelated to any increased cost to the seller. Goods and services to which this section applies are:
 1. Consumer food items;
 2. Goods or services used for emergency cleanup;
 3. Emergency supplies;
 4. Medical supplies;
 5. Home heating oil;
 6. Building materials;
 7. Housing;
 8. Transportation, freight, and storage services; and
 9. Gasoline or other motor fuels.
 - (c) A person's price does not violate this subsection if it is:
 1. Related to an additional cost imposed by a supplier of a good or other costs of providing the good or service, including an additional cost for labor or materials used to provide a service;
 2. Ten percent (10%) or less above the price prior to the declaration;
 3. Ten percent (10%) or less above the sum of the person's costs and normal markup for a good or service;
 4. Generally consistent with fluctuations in applicable commodity, regional, national, or international markets, or seasonal fluctuations;
or
 5. A contract price, or the result of a price formula, established prior to the order implementing this subsection.
 - (d) Whether a price violates this subsection is a question of law. In determining if a violation of this subsection has occurred, the court shall consider all relevant circumstances, including prices prevailing in the locality at that time.
- (2) The provisions of this section may be extended for up to three (3) additional fifteen (15) day periods by the Governor, if necessary to protect the lives,

property, or welfare of the citizens.

- (3) If a person sold or rented a good or service listed in subsection (1) of this section at a reduced price in the thirty (30) days prior to the Governor's implementation of this section, the price at which that person usually sells or rents the good or service in the area for which the declaration was issued shall be used in determining if the person is in violation of this section.
- (4) If a person did not sell or rent or offer to sell or rent a good or service listed in subsection (1) of this section prior to the Governor's implementation of this section, the price at which a good or service was generally available in the area for which the declaration was issued shall be used in determining if the person is in violation of this section.
- (5) Nothing in this section shall be affected by the requirements of KRS 39A.090.

Effective: February 2, 2021

History: Amended 2021 Ky. Acts ch. 6, sec. 9, effective February 2, 2021. -- Amended 2018 Ky. Acts ch. 93, sec. 2, effective July 14, 2018. -- Amended 2007 Ky. Acts ch. 109, sec. 1, effective June 26, 2007. -- Created 2004 Ky. Acts ch. 156, sec. 2, effective July 13, 2004.