

IN THE SENATE

SENATE BILL NO. 1300

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO CONSUMER PROTECTION; AMENDING SECTION 48-603, IDAHO CODE, TO  
2 PROHIBIT TAKING ADVANTAGE OF A DISASTER OR AN EMERGENCY BY CHARGING  
3 EXORBITANT OR EXCESSIVE PRICES FOR TEMPORARY HEALTH CARE SERVICES, TO  
4 DEFINE A TERM, AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMER-  
5 GENCY.  
6

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

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

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

- 14 (1) Passing off goods or services as those of another;
- 15 (2) Causing likelihood of confusion or of misunderstanding as to the  
16 source, sponsorship, approval, or certification of goods or services;
- 17 (3) Causing likelihood of confusion or of misunderstanding as to affil-  
18 iation, connection, or association with, or certification by, another;
- 19 (4) Using deceptive representations or designations of geographic ori-  
20 gin in connection with goods or services;
- 21 (5) Representing that goods or services have sponsorship, approval,  
22 characteristics, ingredients, uses, benefits, or quantities that they do  
23 not have or that a person has a sponsorship, approval, status, affiliation,  
24 connection, qualifications or license that he does not have;
- 25 (6) Representing that goods are original or new if they are deterio-  
26 rated, altered, reconditioned, reclaimed, used, or secondhand;
- 27 (7) Representing that goods or services are of a particular standard,  
28 quality, or grade, or that goods are of a particular style or model, if they  
29 are of another;
- 30 (8) Disparaging the goods, services, or business of another by false or  
31 misleading representation of fact;
- 32 (9) Advertising goods or services with intent not to sell them as adver-  
33 tised;
- 34 (10) Advertising goods or services with intent not to supply reasonably  
35 expectable public demand, unless the advertisement discloses a limitation  
36 of quantity;
- 37 (11) Making false or misleading statements of fact concerning the rea-  
38 sons for, existence of, or amounts of price reductions;
- 39 (12) Obtaining the signature of the buyer to a contract when it contains  
40 blank spaces to be filled in after it has been signed;
- 41 (13) Failing to deliver to the consumer at the time of the consumer's  
42 signature a legible copy of the contract or of any other document that the

1 seller or lender has required or requested the buyer to sign, and that he has  
2 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 lessee  
6 any compensation or reward in consideration of his giving to the seller or  
7 lessor the names of prospective purchasers or lessees, or otherwise aiding  
8 the seller or lessor in making a sale or lease to another person, if the earn-  
9 ing of the rebate, discount or other value is contingent upon the occurrence  
10 of an event subsequent to the time the buyer or lessee agrees to buy or lease;

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

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

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

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

34 (i) The increased price, if any, for which the alleged violator  
35 sold fuel, food, pharmaceuticals, or water to the ultimate con-  
36 sumer before and after the period specified by the disaster or  
37 emergency declaration;

38 (ii) Additional costs of doing business incurred by the alleged  
39 violator and increased prices due to loss of sales or volume sold  
40 because of the disaster or emergency; and

41 (iii) The duration of the disaster or emergency declaration.

42 (b) For purposes of this subsection, "temporary health care services"  
43 means services provided by a person engaged for hire in the business of  
44 providing or procuring temporary employment in a health care facility,  
45 as that term is defined in section 48-303(5), Idaho Code, for health  
46 care personnel. The term "temporary health care services" does not  
47 include services provided by an individual who engages only on the in-  
48 dividual's own to provide services on a temporary basis to a health care  
49 facility.

1           (c) Notwithstanding anything to the contrary contained elsewhere in  
2           this chapter, no private cause of action exists under this subsection.

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