A BILL

To enact sections 1345.023 and 1345.033 of the Revised Code to make changes to the Ohio Consumer Sales Practices Act and to declare an emergency.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1345.023 and 1345.033 of the Revised Code be enacted to read as follows:

Sec. 1345.023. (A) As used in this section and section 1345.033 of the Revised Code, "declaration of an emergency" means any of the following:

(1) The declaration of a state of emergency by the governor;

(2) The declaration of a public health emergency through an order by the department of health;

(3) The declaration of a federal disaster or state of emergency affecting the health or safety of Ohioans by the president of the United States, an agency of the federal
government, or congress.

(B) Upon a declaration of an emergency, the attorney general may issue a written directive establishing per-consumer, per-transaction quantity limitations on the sale of specified consumer goods or services that are directly or indirectly related to the state of emergency or necessary to preserve, protect, or sustain the life, health, or safety of persons or their property during the time of the emergency.

(C) The attorney general's written directive shall specifically describe the per-consumer, per-transaction quantity limitations established pursuant to this section and shall be announced publicly, including by posting a copy of it on the attorney general's official public website. The written directive shall state with specificity the date and time it is to go into effect.

(D) Unless otherwise specified by the attorney general, the quantity limitations in the attorney general's written directive shall last for ninety days, unless renewed or revoked by the attorney general, but in no instance for a period of time greater than the duration of the declaration of an emergency.

(E) A supplier's failure to comply with the directive established by the attorney general pursuant to this section or any procedural rules adopted pursuant to this section after the directive becomes effective is an unfair or deceptive act or practice in connection with a consumer transaction in violation of section 1345.02 of the Revised Code.

(F) The attorney general may adopt procedural rules to further this section pursuant to division (B) of section 1345.05 of the Revised Code.
(G) No private cause of action may be brought for a supplier's failure to comply with a directive established by the attorney general pursuant to this section or any procedural rules adopted pursuant to this section.

Sec. 1345.033. (A) Upon a declaration of an emergency, as defined in section 1345.023 of the Revised Code, it shall be an unconscionable act or practice in violation of section 1345.03 of the Revised Code for a supplier to offer for sale or sell consumer goods or services that are directly or indirectly related to the state of emergency or necessary to preserve, protect, or sustain the life, health, or safety of persons or their property during the time of the emergency at a price grossly in excess of the price at which such goods were sold or offered for sale immediately prior to the state of emergency. The prohibition on these unconscionable acts and practices specified in this provision shall extend until the emergency that is the basis of the declaration of an emergency has ended.

(B) Notwithstanding division (A) of this section, it is the policy of this state to encourage innovation and entrepreneurship, especially during a declared disaster or emergency. It shall be an affirmative defense for a supplier if the supplier can establish with reasonable certainty that their price increase is related to any reasonable but unforeseen circumstances that includes, but is not limited to, any of the following:

1. An increase in cost through their supply chain;

2. An increase due to an action taken by local, state, or the federal government that is otherwise legal;

3. An intentional effort by a supplier that has added
objective value to the good.

(C) No private cause of action may be brought for an unconscionable act or practice described in division (A) of this section.

Section 2. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to protect consumers during the state of emergency regarding COVID-19. Therefore, this act shall go into immediate effect.