

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**S. B. No. 301**

**Senators Manning, Wilson**

**Cosponsors: Senators Lehner, Gavarone, Hoagland, Hackett, Kunze, Schaffer,  
Maharath, Fedor, Thomas, Antonio, Craig, Yuko**

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**A BILL**

To enact sections 1345.023 and 1345.033 of the 1  
Revised Code to make changes to the Ohio 2  
Consumer Sales Practices Act and to declare an 3  
emergency. 4

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

**Section 1.** That sections 1345.023 and 1345.033 of the 5  
Revised Code be enacted to read as follows: 6

**Sec. 1345.023.** (A) As used in this section and section 7  
1345.033 of the Revised Code, "declaration of an emergency" 8  
means any of the following: 9

(1) The declaration of a state of emergency by the 10  
governor; 11

(2) The declaration of a public health emergency through 12  
an order by the department of health; 13

(3) The declaration of a federal disaster or state of 14  
emergency affecting the health or safety of Ohioans by the 15  
president of the United States, an agency of the federal 16

government, or congress.

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(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.

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(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 web site. The written  
directive shall state with specificity the date and time it is  
to go into effect.

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(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.

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(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.

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(F) The attorney general may adopt procedural rules to  
further this section pursuant to division (B) of section 1345.05  
of the Revised Code.

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(G) No private cause of action may be brought for a 46  
supplier's failure to comply with a directive established by the 47  
attorney general pursuant to this section or any procedural 48  
rules adopted pursuant to this section. 49

**Sec. 1345.033.** (A) Upon a declaration of an emergency, as 50  
defined in section 1345.023 of the Revised Code, it shall be an 51  
unconscionable act or practice in violation of section 1345.03 52  
of the Revised Code for a supplier to offer for sale or sell 53  
consumer goods or services that are directly or indirectly 54  
related to the state of emergency or necessary to preserve, 55  
protect, or sustain the life, health, or safety of persons or 56  
their property during the time of the emergency at a price 57  
grossly in excess of the price at which such goods were sold or 58  
offered for sale immediately prior to the state of emergency. 59  
The prohibition on these unconscionable acts and practices 60  
specified in this provision shall extend until the emergency 61  
that is the basis of the declaration of an emergency has ended. 62

(B) Notwithstanding division (A) of this section, it is 63  
the policy of this state to encourage innovation and 64  
entrepreneurship, especially during a declared disaster or 65  
emergency. It shall be an affirmative defense for a supplier if 66  
the supplier can establish with reasonable certainty that their 67  
price increase is related to any reasonable but unforeseen 68  
circumstances that includes, but is not limited to, any of the 69  
following: 70

(1) An increase in cost through their supply chain; 71

(2) An increase due to an action taken by local, state, or 72  
the federal government that is otherwise legal; 73

(3) An intentional effort by a supplier that has added 74

objective value to the good. 75

(C) No private cause of action may be brought for an 76  
unconscionable act or practice described in division (A) of this 77  
section. 78

**Section 2.** This act is hereby declared to be an emergency 79  
measure necessary for the immediate preservation of the public 80  
peace, health, and safety. The reason for such necessity is to 81  
protect consumers during the state of emergency regarding COVID- 82  
19. Therefore, this act shall go into immediate effect. 83