

THE TWENTY-NINTH LEGISLATURE OF AMERICAN SAMOA

THIRD REGULAR SESSION

Begun and held at Fagatogo, Tutuila, American Samoa  
on Monday, the ninth day of January  
two thousand and six

AN ACT PROHIBITING THE PRACTICE OF PRICE GOUGING AND UNFAIR PRICING PRACTICES ON MERCHANDISE AND SERVICES, PRIOR TO, DURING AND SHORTLY AFTER A STATE OF EMERGENCY; AND PROVIDING FOR PENALTIES AND REMEDIES; CREATING A CHAPTER 09 UNDER TITLE 27 A.S.C.A.

Preamble:

WHEREAS, the Administration's task force established to investigate consumer discontent over the widespread practice of price gouging and unfair pricing practices, have determined that some merchants have taken unfair advantage of consumers by raising prices for essential consumer goods and services during state of disasters; and

WHEREAS, that such unwarrantable practices present a significant negative impact on the economy and well-being of this Territory and its local communities; and

WHEREAS, the public interest requires that excessive and unjustified increases in the prices of essential merchandise and services during such critical times as disasters be controlled.

Due to the current hurricane season and the need to prevent these unjust practices from reoccurring in the Territory, this measure shall become effective immediately upon passage by the Legislature and approval by the Governor.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

**Section 1. There is created a Chapter 09 under Title 27 ASCA which reads:**

**“Chapter 09  
PRICE GOUGING**

**Sections:**

- 27.0901 Purpose.**
- 27.0902 Definitions.**
- 27.0903 Prohibited unfair pricing practices.**
- 27.0904 Penalties and remedies.**
- 27.0905 Enforcement.**

**27.0901 Purpose.**

**It is the public policy of this Territory to protect its citizens from price gouging during states of disaster. The Territory also realizes the complexity in regulating prices while not defeating the ability of the market in goods and services from bringing supply back in balance with demand and not defeating the function of price in allocating scarce resources.**

**27.0902 Definitions.**

**(a) “State of emergency” means a natural or manmade disaster or emergency resulting from an earthquake, hurricane, flood, riot, fire, storm, tsunami, or civil disturbance as declared by the President of the United States or the Governor of American Samoa.**

**(b) “Consumer food item” means any article that is used or intended for use for food, drink, confection, or condiment by a person or animal.**

**(c) “Repair or reconstruction services” means services performed by any person for repairs to residential or commercial property of any type that is damaged as a result of a disaster.**

**(d) “Emergency supplies” includes, but is not limited to, water, flashlights, radios, batteries, candles, blankets, soaps, diapers, temporary shelters, tape, toiletries, plywood, nails, and hammers.**

**(e) “Medical supplies” includes, but is not limited to, prescription and nonprescription medications, bandages, gauze, isopropyl alcohol, and antibacterial products.**

**(f) “Building materials” means lumber, construction tools, windows, and anything else used in the building or rebuilding of property.**

**(g) “Gasoline” means any fuel used to power a motor vehicle or power tool.**

**(h) “Housing” means any rental housing or dwelling units leased on a month-to-month term.**

**(i) “gross disparity” means a significant difference in price currently charged prior to the declaration of state of emergency and the price**

being charged during the declaration period.”

(j) “unconscionable prices” means an increase in the price of commodities which is greater in amount when compared to the most recent consumer price index prepared by the American Samoa government, department of commerce.”

(k) “competent authority” means the Governor of American Samoa, the President of the United States, or other individual otherwise by the law with the power to declare a state of emergency.”

**27.0903 Prohibited unfair pricing practices.**

(a) Upon a declaration of a state of emergency, and for a period of thirty (30) days following that declaration, it is unlawful for any person, contractor, business, or other entity to sell, rent or offer to sell or rent any consumer food items or goods, emergency supplies, medical supplies, building materials, housing, gasoline, or any other goods or services necessary in an emergency response for a price of more than ten percent (10%) above the price charged by that person, contractor, business or other entity for those goods or services immediately prior to the declaration of a state of emergency. However, a greater price increase shall not be unlawful if that person can prove that 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 additional costs imposed by the supplier or additional costs of providing the goods or services during the state of emergency, the price represents no more than ten percent (10%) 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 immediately prior to the onset of the state of emergency.

(b) Prior to the occurrence and upon a declaration of a state of emergency, and for a period of one hundred eighty (180) days following that declaration, it is unlawful for any person, contractor, business, or other entity to sell or offer to sell any repair or reconstruction services or any other services used in emergency cleanup for a price of more than ten percent (10%) above the price charged by that person, contractor, business or other entity for those goods or services immediately prior to the declaration of a state of emergency. However, a greater price increase shall not be unlawful if that person can prove that 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 additional costs imposed by the supplier or additional costs of providing the good or service during the state of emergency, the price represents no more than ten percent (10%) 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 immediately prior to the onset of the state of emergency.

(c) the amount charged represents a gross disparity between the price of the commodity or rental or lease of any dwelling unit that is the subject of the offer or transaction and the average price at which that commodity or dwelling unit was rented, leased, sold or offered for rent or sale in the usual course of business during this period immediately prior to a declaration of a state of emergency, and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of any dwelling unit, or national or international market trends.

(d) The provisions of this section may be extended for additional thirty (30) day periods by the Governor of American Samoa if deemed necessary to protect the lives, property, or welfare of the citizens.

(e) Any business offering an item for sale at a reduced price immediately prior to the declaration of a state of emergency may use the price at which they usually sell the item to calculate the price pursuant to subsection (a) or (b).

#### **27.0904 Penalties and remedies.**

(a) In addition to all other remedies provided by the American Samoa Code Annotated, the Court shall impose a civil penalty of not more than \$1,000 per violation with an aggregate total not to exceed \$25,000 for any 24-hour period against any person, contractor, business or other entity who violates the provisions of this chapter. An additional suspension of license after the second offense shall be imposed. All penalties assessed and collected shall be transferred to the Bureau of Consumer Protection of the Department of Legal Affairs to further consumer protection efforts.

(b) Any person who is found to have violated this chapter shall be guilty of a Class A misdemeanor for each violation.

(c) The remedies and penalties provided by this section are cumulative to each other and the remedies and penalties available under all other laws of American Samoa.

(d) it is a violation of this chapter if a person offers for sale or rent any commodity at an unconscionable price during this period immediately preceding and during the effectiveness of a declaration of a state of emergency declared by a competent authority.

(e) Nothing in this chapter creates a private cause of action in favor of any person damaged by a violation of this chapter.

**27.0905 Enforcement.**

Any violation of this chapter may be enforced by the Office of the Attorney General.”

**Sec 2. Effective date.**

Due to the current hurricane season and the need to prevent these unjust practices from recurring in the Territory, this measure shall become effective immediately upon passage by the Legislature and approval by the Governor.

*Lolo M. Moliga*  
LOLO M. MOLIGA  
President of the Senate

*Matagi R. Ma'ilo McMoore*  
MATAGI RAY MA'ILO MCMOORE  
Speaker, House of Representatives

Hereby Approved this 31<sup>st</sup> day of March 2020  
*[Signature]*  
Governor Of American Samoa

NOFOAIGA LUASEFULU-IVA FONOFAITULAFONO A AMERIKA SAMOA

FONO TELE LONA TOLU

Nofioia ma usuia i Fagatogo, Tutuila, Amerika Samoa  
Aso Gafua, aso iva o Ianuari  
lua afe ma le ono

O SE TULAFONO E FAASA AI LE TASII O LE TAU O OLOA MA FAIGA LE TALAFEAGAI AI I OLOA MA TAUTUA FOI, AO SAUNIUNI ATU, POO LE TAIMI FOI UA OO MAI AI, POO LE FAATO'A MAVAE ATU FOI O SE TULAGA O SE FAALAVELAVE FAAFUASE'I; MA AIAIA AI FAASALAGA MA FOFO E FO'IA AI LEA MASANI; UA FAI AI FOI MA SE MATAUPU 09 I LALO O LE ULUTALA 27 TTAS.

Faatomuaga

TALUAI, ua maua le faaiuga a le komiti galue a le malo na tofia e suesueina le le faiga le fetau i le tasii i luga o le tau o oloa e faapea, e i ai le au faioloa o loo faia le masani lea i le taimi e tutupu ai faalavelave tau natura; ma

TALUAI, o nei faiga le talafeagai ua tulai mai ai se tulaga le manuia tau le tamaoaiga ma le soifua solo lelei o tagata o le Teritori; ma

TALUAI, e moomia e le lautele le tatau ona pulea lelei le soona sii o le tau o oloa ma isi tautua e aunoa ma se mafuaga tatau i taimi o faalavelave faale-natura.

Talu ai ona ua lalata mai le vaitau o afa ae ua moomia le taofia o nei faiga mai le tupu pea, o lea o le aloa'ia ai lenei tulafono i le taimi lava e pasia ai e le Fono Faitulafono ma sainia e le Kovana.

IA FAATULAFONOINA E LE FONO FAITULAFONO A AMERIKA SAMOA:

**Maga 1. Ua i ai nei se mataupu 09 i lalo o le Ulutala 27 e faitauina faapea:**

**“MATAUPU 09  
SOONA SII O TAU**

**Maga:**

- 27.0901 Mafuaga.**
- 27.0902 Uiga.**
- 27.0903 Faiga le fetau e faasa ona fai i le tau o mea.**
- 27.0904 Faasalaga ma fofu e fo’ia ai.**
- 27.0905 Faamalosiga.**

**27.0901 Mafuaga.**

O le faiga taussia lautele lava a leni Teritori o le puipua lea o ona tagatanuu mai le soona faataugata o mea i taimi o faalavelave faanatura. E malamalama lelei lava le Teritori i le lavelave o le faatulafonoina o tau o mea e aunoa ma le aafia ai o le mafai e le maketi ona toe faapaleniina a latou sapalai ma le mana’oga, atoa foi ma le matafaioi lava latou a le tau o mea i le faasoasoina o oloa e seasea ona maua.

**27.0902 Uiga o upu.**

(a) “Tulaga o faalavelave faafuasei” o lona uiga o se faalavelave faanatura poo se faalavelave e mafua i se tagata, pe mafua foi ona o se mafui’e, afa, lolo, o se tetee, o se mu, se matagi malosi, se galulolo poo se vevesi foi faasivili e folafolaina e le Peresetene o le Iunaita Setete poo le Kovana o Amerika Samoa.

(e) “Se taumafa” o lona uiga soo se mea lava e faaoga pe faamoemoe foi e faaoga mo mea’ai, meainu, poo soo se mea lava faapea e faaoga e se tagata poo se manu.

(i) “Tautua i se mea toe faafou pe toe fausia”, o lona uiga o ni tautua e faia e soo se tagata mo le faafouina o se fale nofo poo soo se mea totino lava e faaoga e se pisinisi na mafua ona leaga ona o se faalavelave.

(o) “Sapalai mo faalavelave faafuasei” e aafia ai, ae le na ona pau ai lea, le vai, moliuila, leitio, maa, moliga’o, palanikeke, fasimoli, ma isi, fale e malu ai mo sina taimi, mea e faaoga i faletaele, ma isi lava mea e moomia i taimi faapea.

(u) “Sapalai o mea tau falemai”, e aafia ai ae le na o le pau ai lea, vaila’au seiloga e tusi mai e le fomai ma mea foi e mafai lava ona faatau e oe lava ia e aunoa ma se pepa mai se fomai.

(f) “Mea faufale”, o lona uiga o laupapa, meafaigaluega fau fale, faamalama ma soo se mea lava e faaoga i le fausia poo le toe faaleleia foi o se fale.

(g) “Kesolini”(kesi) o lona uiga soo se suauu lava e faaoga i taavale ma mea faigaluega.

(l) "Fale" o lona uiga soo se fale mautotogi poo ni fale foi e lisi ta'i masina.

(m) "Ese'esega tele" o ona uiga o se eseesega maoa'e i le tau ua fa'ae'eina atu ae le'i fa'ailoa atu le tulaga o le fa'alavelave fa'afuase'i fa'apea ma le tau ua fa'ae'eina atu a'o feagai ma le taimi o le fa'aaliga fa'alaua'itele.

(n) "Tau le talafeagai" o lona uiga o se si'itaga i le tau o oloa ua sili atu i le aofa'i pe afai e fa'atusatusa i le lisi fuafuaina o tau mo tagata fa'atau aupito lata mai sa saunia e le Malo o Amerika Samoa, Matagaluega o Fefa'ataua'iga.

(p) "Pule'aga aloa'ia" o lona uiga o le Kovana o Amerika Samoa, Peresetene o le Iunaite Setete, po'o isi tagata ta'ito'atasi e ala i le tulafono fa'atasi ai ma le pule e fa'ailoa fa'alaua'itele atu ai se tulaga o fa'alavelave fa'afuase'i.

27.0903 Faiga le fetau e faasa ona fai i le tau o oloa.

(a) I le folafolaina faalauaitele o se tulaga tau faalavelave faafuasei, ma alu atu ai lava mo se taimi e 30 aso talu ona uma lea folafolaga, e sa i le tulafono se tagata, se konekarate, pisinisi poo se isi lava vaega ona faatau atu, pe avatu foi mo se totogi, poo le ofo foi ia faapena ona fai, soo se taumafa poo ni oloa poo ni tautua e tatau ai mo le tali atu i se faalavelave faafuasei i se totogi e sili atu i le sefulu pasene (10%) nai lo le tau sa i ai ae le i folafolaina le tulaga tau faalavelave. Peitai, e le o se solitulafono pe afai e mafai ona faamaonia mai o le faaopoopoga lea o le tau o se mea na sau sa'o lava mai le kamupani na aumai ai le oloa, pe o le faaopoopoga foi e mafua ona o le totogi o le leipa poo mea na faaaoga mo le gaosia o le oloa lea, pe afai lena e le silia i le 10% o le tau na aumai ai, faatasi ai ma le tupe faasili e masani ona faaopoopo e le faioloa ae le i oo i le taimi o le faalavelave.

(e) Ae le'i tupu mai ma i le taimi e folafolaina ai se tulaga o faalavelave faafuasei, ma le 180 aso e sosoo ai ma lena folafolaga, e sa i le tulafono se tagata, konekarate, pisinisi ma soo se isi lava vaega ona latou faatau, pe ofo foi e faatau atu, ni tautua e faafou ai pe toe fausia ai ni fale poo soo se isi lava tautua e faaaoga i galuega faamama mo se totogi e sili atu i le 10% o le tau masani sa faatau atu ai ia lava ituaiga o galuega ao le i oo ina tupu le faalavelave. Peitai, e le o se solitulafono pe afai e mafai ona faamaonia mai o le siitaga lea i le tau e sau sa'o lava mai le kamupani na aumaia le oloa, pe mafua foi ona o le leipa ma mea na faaaoga e gaosi ai le oloa, pe afai lava e le sili atu i le 10% o le tau na aumai ai le oloa faatasi ai la ma le tupe faasili e masani lava ona faaopoopo i taimi ae le i oo mai se faalavelave.



(i) O le aofa'iga ua fa'ae'eina atu ua fa'ailoa mai ai se 'ese'esega maoa'e i le va o le tau o oloa po'o le fale mau totogi po'o le lisi atu o so'o se falenofa o le mata'upu lena o le tau fuafuaina po'o le tualumaga fa'apea ma le fua o le tau o le oloa po'o falenofa e nofo totogi ai, lisi atu, fa'atau atu pe tu'uina atu mo le fa'aaoga totogi po'o fa'atauga i le tulaga masani o pisinisi i lena taimi fa'anatinati ae le'i fa'ailoa fa'alau'iteleina atu se tulaga o le fa'alavelave fa'afuase'i, fa'apea ma le si'itaga i le aofa'i ua fa'ae'eina atu e le talafeagai ona fa'ae'e atu i tau fa'aopoopo ua tu'uina atu e feso'ota'i ma le fa'aaoga totogi, po'o le fa'atauga o oloa po'o le fa'aaoga totogi po'o le lisi atu o so'o se falenofa, po'o tualumaga lautele fa'ale maketi i le Malo po'o i le va o Malo; po'o

(o) O aiaiga o lenei maga e mafai ona faaopoopo mo se isi ta'i 30 aso e le Kovana o Amerika Samoa pe afai lava e tatau ai, mo le puipua o le soifua, mea totino ma le soifua lelei o tagata.

(u) Soo se pisinisi e ofo e faapa'u le tau o se oloa i le taimi ao lei oo ina folafolaina le tulaga tau faalavelave, e mafai ona ia faaoga le tau masani e fua i ai le tau ina ia tusa ai ma soamaga (a) poo le (e).

#### 27.0904 Faasalaga ma fofo.

(a) E le gata i isi fofo uma lava o loo ta'u mai i le Tusi Tulafono a Amerika Samoa, ae faaopoopo foi ma le faaee atu e le Faamasinoga o se faasalaga sivili e le silia i le \$1,000 i le solitulafono ma se aofa'iga tuufaatasi e le silia i le \$25,000 mo soo se vaitaimi ta'i 24 itula mo se tagata, konekarate, pisinisi poo se isi lava vaega e solia aiaiga o lenei mataupu. E fa'aopoopo i le isi taofia o le laisene pe a uma le solitulafono lona lua. O faasalaga uma e aoina e tatau ona faaoo atu i le Matagaluega a le Loia Sili, Ofisa o le Puipuiga o Tagata Faatau ina ia saga faamalositia ai pea taumafaiga i le puipua o tagata faatau.

(e) Soo se tagata e maua o solia lenei mataupu e nofosala i le solitulafono mama o le Vasega A, mo solitulafono tasitasi uma.

(i) O fofo ma faasalaga o loo aiaia i lenei maga e faaopoopo atu le isi i le tasi faatasi ai foi ma fofo ma faasalaga o loo tuuina mai i lalo o isi tulafono a Amerika Samoa.

(o) O se soliga o lenei mata'upu pe afai e ofoina atu e se tagata mo le fa'atauina atu po'o le fa'aaoga totogi o so'o se oloa i se tau fuafua le talafeagai i lenei vaitau fa'anatinati a'o lumana'i ma a'o feagai ma le taualoaina o se fa'aaliga fa'alau'itele ole tulaga o fa'alavelave fa'afuase'i ua fa'asilasila fa'alau'itele atu e le pule'aga taualoa.

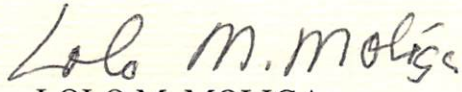
(u) E leai se mea i totonu o lenei mataupu o lo'o ta'ua ai se gaoioiga e fai e le tagata lava ia e fa'a'au'au ai i se tagata ua sala i se solitulafono o lenei mataupu.

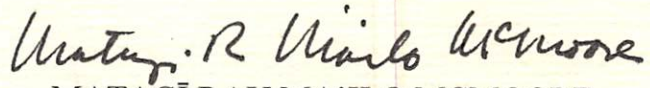
27.0905 Faamalosiga.

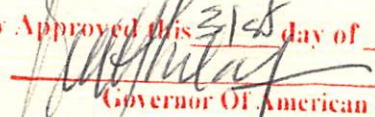
Soo se solitulafono i lenei mataupu e mafai ona faamalosia e le Ofisa o le Loia Sili."

Maga 2. Aso e taualoha ai.

Talu ai ona ua vave mai le vaitau o afa ma ua moomia ai le taofia o le tupu pea o nei faiga le faamaoni i le Teritori, o lea e tatau ai ona aloa'ia lenei tulafono i le taimi lava e pasia ai e le Fono Faitulafono ma sainia e le Kovana.

  
LOLO M. MOLIGA  
Peresetene, Maota Maualuga

  
MATAGI RAY MA'ILO MCMOORE  
Fofoga Fetalai, Maota o Sui

Hereby Approved this 31<sup>st</sup> day of March 2006  
  
Governor Of American Samoa