

[Mo. Code Regs. Ann. tit. 15, §§ 60-8.010 through 60-8.030.]

§§ Mo. Code Regs. Ann. tit. 15, §§ 60-8.010 through 60-8.030: Unfair Practices

§ 60-8.010. Definitions.

PURPOSE: The attorney general administers and enforces the provisions of the Merchandising Practices Act, Chapter 407, RSMo. The attorney general may make rules necessary to the administration and enforcement of the provisions of Chapter 407, RSMo and, in order to provide notice to the public, may specify the meaning of terms whether or not used in the Act. This rule specifies the settled meanings of certain terms used in the enforcement of the Act and provides notice to the public of their application.

(1) Unless inconsistent with the definitions provided in Chapter 407, RSMo, the following terms and phrases shall mean:

(A) Actual cost shall mean money expended or credit incurred and no allowance shall be made for the replacement cost of merchandise that the seller is reasonably assured of recouping the replacement cost as part of the price of subsequent sales of the merchandise;

(B) Consumer shall include any person (as defined in section 407.010.5., RSMo) who purchases, may purchase or is solicited for purchase of merchandise;

(C) Disaster area shall mean an area declared to be a disaster area by either state or federal authorities. A disaster area, for purposes of 15 CSR 60-8.030, will expire upon the termination date stated in the order or declaration issued by state or federal authorities, or if no termination date is stated, shall expire thirty (30) days from the date of issuance of the order or declaration. Such order or declaration may be renewed by state or federal authorities. Each renewal will expire upon the termination date stated in the renewal, or if no termination date is stated, shall expire thirty (30) days from the date of issuance of the renewal;

(D) Excessive price shall mean a seller's price that is not justified by the seller's actual cost of acquiring, producing, selling, transporting, and delivering the actual product sold plus the seller's usual and customary profit margin prior to the onset of the natural disaster. An excessive price, for purposes of determining a violation of 15 CSR 60-8.030, shall not include any price agreed to by a buyer and seller prior to the declaration of an applicable disaster;

(E) Good faith shall mean honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade;

(F) Natural disaster shall mean property damage caused by heavy rainfall, storm, tornado, flooding, or earthquake; and

(G) Necessity shall include all materials and services related to, but not limited to, food, water, medical treatment, sanitation, construction, repair, and transportation.

§ 60-8.011. Definitions.

Emergency rule filed July 29, 1993, effective Aug. 8, 1993, expired Dec. 5, 1993.

§ 60-8.020. Unfair Practice in General.

PURPOSE: The attorney general administers and enforces the provisions of the Merchandising Practices Act, Chapter 407, RSMo. The attorney general may make rules necessary to the administration and enforcement of the provisions of Chapter 407, RSMo and, in order to provide notice to the public, may specify the meaning of terms whether or not used in the Act. This rule specifies the settled meanings of certain terms used in the enforcement of the Act and provides notice to the public of their application.

(1) An unfair practice is any practice which—

(A) Either—

1. Offends any public policy as it has been established by the Constitution, statutes or common law of this state, or by the Federal Trade Commission, or its interpretive decisions; or
2. Is unethical, oppressive or unscrupulous; and

(B) Presents a risk of, or causes, substantial injury to consumers.

(2) Proof of deception, fraud, or misrepresentation is not required to prove unfair practices as used in section 407.020.1., RSMo.

§ 60-8.021. Price Gouging.

Emergency rule filed July 29, 1993, effective Aug. 8, 1993, expired Dec. 5, 1993.

§ 60-8.030. Price Gouging.

PURPOSE: The attorney general administers and enforces the provisions of the Merchandising Practices Act, Chapter 407, RSMo. The attorney general may make rules necessary to the administration and enforcement of the provisions of Chapter 407, RSMo and, in order to provide notice to the public, may specify meanings of terms used in the Act. This rule specifies the settled meanings of certain terms used in the enforcement of the Act and provides notice to the public of their application. Practices specified are not intended to be an all inclusive list of practices which are unfair, but this rule enumerates specific practices which are unfair and are violative of section 407.020, RSMo.

(1) It is an unfair practice for any person in connection with the advertisement or sale of

merchandise to—

- (A) Take advantage of a person's physical or mental impairment or hardship caused by extreme temporary conditions, and charge a price substantially above the previous market price of the merchandise in seller's trade area;
- (B) Charge within a disaster area an excessive price for any necessity; or
- (C) Charge any person an excessive price for any necessity which the seller has reason to know is likely to be provided to consumers within a disaster area.