



State of South Carolina

Office of the Governor

MARK SANFORD
GOVERNOR

POST OFFICE BOX 12267
COLUMBIA 29211

June 6, 2006

The Honorable Robert Harrell, Jr.
Speaker of the House of Representatives
Post Office Box 11867
Columbia, South Carolina 29211

Dear Mr. Speaker and Members of the House:

I am hereby vetoing and returning without my approval H. 4316, R-372.

This bill would allow our Attorney General to declare that abnormal market conditions exist for a good or service even though no gubernatorial state of emergency had been declared in South Carolina. The anti-price gouging laws would be triggered whenever the Attorney General made a determination that the market for any essential good or service had been abnormally disrupted as a result of forces of nature, failure or shortage of an energy source, strike, civil disorder or other cause that formed the basis of an out-of-state disaster or emergency declaration by the President of the United States.

Declarations of emergency are within the purview of the Governor's Office. This legislation essentially gives the Attorney General the power to determine whether emergency market conditions exist and whether anyone should be prosecuted. Under current law, it is the declaration of emergency by the governor (or an in-state presidential declaration) that triggers the anti-price gouging statute. Having the state's highest executive official as a check and balance in determining whether a commodity supply emergency exists would help protect against potential abuse.

This is not, in any way, to suggest that the current Attorney General would abuse the power given in this bill. General McMaster has done an admirable job and is serving the people of this State well. I am only concerned that having both the emergency declaration and prosecutorial decision made by the same person is fraught with the potential for abuse by future holders of that high office. The method of choice our Founding Fathers used to avoid abuse of power was to develop checks and balances.

Here, the governor, in his role as the state's chief executive officer, should determine whether an abnormal disruption of pricing for goods and services has occurred to trigger the anti-price

The Honorable Robert Harrell, Jr.

June 6, 2006

Page 2

gouging law. The Attorney General would then prosecute any violators under his role as the state's top prosecutor. A similar check and balance exists with respect to the Attorney General impaneling a state grand jury where the law requires the concurrence of the Chief of the South Carolina Law Enforcement Division and the approval of the Chief Circuit Judge for the area. If this bill contained a procedural safeguard allowing the governor to make the market disruption determination, I would gladly sign it.

For these reasons, I am vetoing H. 4316 and returning it to you without my signature.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark Sanford", is written above the printed name.

Mark Sanford