

Proskauer on Price Gouging

A Coast-to-Coast Reference Guide



Considerations for Supply Chain Businesses

In response to the current pandemic, state attorneys general are actively pursuing price gouging cases across the supply chain. The sudden rise in price gouging cases and the unprecedented nature of the COVID-19 crisis have likely raised new questions for many businesses, whether due to unfamiliarity with price gouging laws and compliance, the rapidly changing nature of the crisis and accompanying state executive orders, or any number of other reasons.

Most states have price gouging laws, and each is different. In many states, executive orders have added new requirements to, or otherwise changed, existing state laws. State officials continue to issue new requirements and guidance. To help monitor these requirements across the dozens of different states, we have created this reference guide, which compiles some of the major state laws and orders on price gouging by state.

Supply chain businesses should consider an assessment of the specific compliance required by state price gouging laws as applied to their own sales, products, and geography. Among other considerations, companies seeking to assess their compliance with state price gouging laws might analyze the following questions:

1. Where they sell (*i.e.*, *online*, *specific states*, *nationwide*).
2. What products or services they sell and whether those products or services are regulated by the state price gouging law.
3. What their prices were before the state of emergency.
4. How their costs are impacted by the state of emergency.
5. Whether their prices have changed and, if so, how and why.

DISCLAIMER: In creating and providing this reference guide, Proskauer is not offering legal advice, nor is Proskauer creating an attorney-client relationship with you. You should consult your counsel about the application of the price gouging laws to your company. Prior results do not guarantee a similar outcome.

Price Gouging Team



Christopher E. Ondeck
Partner
+1.202.416.5865
condeck@proskauer.com



John R. Ingrassia
Senior Counsel
+1.202.416.6869
jingrassia@proskauer.com



Owen Masters
Associate
+1.202.416.6828
omasters@proskauer.com



Jennifer E. Tarr
Associate
+1.202.416.6846
jtarr@proskauer.com



Nicollette R. Moser
Associate
+1.202.416.5862
nmoser@proskauer.com

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Alabama

Statute

"It is unlawful and a violation of Section 8-19-5, for any person to impose unconscionable prices for the sale or rental of any commodity or rental facility during the period of a declared state of emergency." [Ala. Code § 8-31-3](#)

"It is prima facie evidence that a price is unconscionable if any person, during a state of emergency declared pursuant to the powers granted to the Governor in Section 31-9-8, charges a price that exceeds, by an amount equal to or in excess of twenty-five percent the average price at which the same or similar commodity or rental facility was obtainable in the affected area during the last 30 days immediately prior to the declared state of emergency and the increase in the price charged is not attributable to reasonable costs incurred in connection with the rental or sale of the commodity." [Ala. Code § 8-31-4](#)

Penalty

"Upon an entry of judgement or decree for a violation of this chapter, the court shall impose a civil penalty not to exceed one thousand dollars (\$1,000) per violation with an aggregate total not to exceed twenty-five thousand dollars (\$25,000) for any 24-hour period." [Ala. Code § 8-31-5](#)

"Upon a showing to the court by the office of the Attorney General or the office of the district attorney that a person has engaged in continuous and willful violations of this chapter, the court may suspend or revoke any license or certificate authorizing that person to engage in business in this state or the court may enjoin any person from engaging in business in this state." [Ala. Code § 8-31-5\(c\)](#)

Emergency Declaration

On March 13, 2020, the Governor [declared](#) a state of emergency, which remains in effect indefinitely.



Alaska

Statute

“A person that charges more than 10 percent over the price charged for supplies in this state in the normal course of business before the start of the novel coronavirus disease (COVID-19) public health disaster emergency declared by the governor on March 11, 2020, as extended by sec. 2 of this Act, commits an unfair or deceptive act or practice under AS 45.50.471 - 45.50.561 (Alaska Unfair Trade Practices and Consumer Protection Act) unless the charge that exceeds 10 percent is caused by an increased cost for the seller to purchase the supplies or, for a person in the business of selling fuel, caused by normal fluctuations in the market for fuel based on supply and demand. This section applies regardless of whether the person was in the business of selling supplies before March 11, 2020.” [Alaska Ch. 10 SLA 20 § 26](#)

Penalty

“In an action brought under AS 45.50.501, if the court finds that a person is using or has used an act or practice declared unlawful by AS 45.50.471, the attorney general, upon petition to the court, may recover, on behalf of the state, a civil penalty of not less than \$1,000 and not more than \$25,000 for each violation.” [Alaska § 45.50.551](#)

Emergency Declaration

On March 11, 2020, the Governor issued a [declaration](#) of a public health disaster emergency, which remains in effect through November 15, 2020.



Arizona

Statute

Arizona does not have a price gouging law.

Emergency Declaration

However, under [Executive Order 2020-07](#) the “Department of Health and Services and all Arizona health regulatory boards shall prohibit, investigate, and take action against any licensed health professional or healthcare institution that engages in price gouging in relation to COVID-19 diagnosis and treatment-related services. In this context, price gouging is defined as the provider or institution charging a grossly higher price than that which was charged before the onset of the emergency.”

- “The Attorney General shall investigate and vigorously prosecute complaints of consumer fraud in relation to COVID-19 diagnosis and treatment-related services under the consumer protection laws.”
- EO 2020-07 is in effect until the termination of the Declaration of Public Health Emergency dated March 11, 2020.



Arkansas

Statute

"Upon the proclamation of a state of emergency ... declared by the President of the United States or the Governor ... for a period of thirty (30) days following that declaration or during any period of time during which a red condition under the Homeland Security Advisory System has been declared by either the United States Department of Homeland Security or the Arkansas Department of Emergency Management, it is unlawful for any person, contractor, business, or other entity to sell or offer to sell any consumer food items or goods, goods or services used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight, and storage services, or gasoline or other motor fuels for a price of more than ten percent (10%) above the price charged by that person for those goods or services immediately prior to the proclamation of emergency." [Ark. Stat. § 4-88-303\(a\)\(1\)](#)

"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 seller's 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." [Ark. Stat. § 4-88-303\(a\)\(2\)](#)

Penalty

"In any proceeding brought by the Attorney General for civil enforcement of the provisions of this chapter, prohibiting unlawful practices as defined in this chapter, the circuit court may make such orders or judgments as may be necessary to... assess penalties to be paid to the state, not to exceed ten thousand dollars (\$10,000) per violation, against persons found to have violated this chapter." [Ark. Stat. § 4-88-113](#)

"Any person who is found to have violated this subchapter shall be guilty of a Class A misdemeanor." [Ark. Stat. § 4-88-304](#)

Emergency Declaration

On March 11, 2020, the Governor declared a [state of emergency](#), which remains in effect through May 10, 2020.



California

Statute

“Upon the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency ... for a period of 30 days following that proclamation or declaration, it is unlawful for a person, contractor, business, or other entity to sell or offer to sell any consumer food items or goods, goods or services used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight, and storage services, or gasoline or other motor fuels for a price of more than 10 percent greater than the price charged by that person for those goods or services immediately prior to the proclamation or declaration of emergency.” [Cal. Pen. Code tit. 10, § 396\(b\)](#)

“A greater price increase is not 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, during the state of emergency or local emergency, and the price is no more than 10 percent greater than 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 or local emergency.” [Cal. Pen. Code tit. 10, § 396\(b\)](#)

Penalty

"A violation of this section is a misdemeanor punishable by imprisonment in a county jail for a period not exceeding one year, or by a fine of not more than ten thousand dollars (\$10,000), or by both that fine and imprisonment." [Cal. Pen. Code tit. 10, § 396\(h\)](#)

“Any person who engages, has engaged, or proposes to engage in unfair competition shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation.” [Cal. Bus. and Professional Code § 17206\(a\)](#)

Executive Order

On March 4, 2020, the Governor declared a [state of emergency](#), which remains in effect through September 4, 2020.



Colorado

Statute

Colorado does not have a price gouging law.

Emergency Declaration

On March 11, 2020, the Governor declared a [state of emergency](#), which remains in effect through May 8, 2020.



Connecticut

Statute

"No person, firm or corporation shall increase the price of any item which such person, firm or corporation sells or offers for sale at retail at any location in an area which is the subject of any disaster emergency declaration issued by the Governor pursuant to chapter 517, any transportation emergency declaration issued by the Governor pursuant to section 3-6b or any major disaster or emergency declaration issued by the President of the United States, until the period of emergency or disaster is declared by the Governor or the President to be at an end."

[Conn. Gen. Stat. § 42-230](#)

"No person shall sell or offer for sale during the course of any supply emergency declared by the Governor under section 42-231 any product or service which the Governor has designated to be in short supply or in danger of becoming in short supply in the area where such product or service is being sold or offered for sale at a price which exceeds the price at which such product or service was sold or offered for sale by such person in the usual course of business immediately prior to the declaration of the emergency. Nothing herein shall prohibit an increase in the price of a product or service which is attributable to additional costs incurred by such person in connection with the acquisition, production, distribution or sale of such product or service." [Conn. Gen. Stat § 42-232](#)

Penalty

"Any person, firm or corporation which violates any provision of this section shall be fined not more than ninety-nine dollars [per violation]." [Conn. Gen. Stat § 42-230](#)

- "Any violation of this section is also considered an unfair or deceptive trade practice in violation of CUTPA, Conn. Gen. Stat. § 42- 110b and additional types of relief may also be sought." [Conn. Gen. Stat § 42-230](#)

"Any person who violates the provisions of this section or any order issued pursuant to section 42-231 shall be fined not more than one thousand dollars or imprisoned not more than one year, or both, for each offense, except that any person who intentionally violates the provisions of this section or any order issued pursuant to section 42-231 or engages in a pattern of activity constituting repeated violations of this section or any such order shall be guilty of a class D felony for each offense. Each violation and each day on which the violation occurs or continues shall be a separate offense." [Conn. Gen. Stat § 42-232](#)

Emergency Declaration

On March 10, 2020, the Governor issued a [disaster emergency declaration](#), which remains in effect through September 9, 2020.



Delaware

Statute

Delaware does not have a price gouging law.

Emergency Declaration

However, on March 12, 2020, the Governor issued a [State of Emergency Declaration](#), stating: "No entity doing business in this state shall engage in price gouging as a result of this public health emergency, which shall mean an excessive price increase of goods or services offered for sale beyond the sale price in the usual course of business immediately prior to the date of this state of emergency, unless the increase is attributable to additional costs imposed on the supplier of such goods or services, such price not to increase more than 10% from the cost customarily applied in the usual course of business prior to this state of emergency."

"A violation of this paragraph shall be deemed an unlawful practice under § 2513 of Title 6 of the Delaware Code and a violation of Subchapter II of Chapter 25 of Title 6."

The [state of emergency](#) is in effect through May 10, 2020.

Penalty

"A violation of this paragraph shall be deemed an unlawful practice under [§ 2513 of Title 6](#) of the Delaware Code and a violation of Subchapter II of Chapter 25 of Title 6."

"If a court of competent jurisdiction finds that any person has wilfully violated this subchapter, upon petition to the court by the Attorney General in the original complaint or made at any time following the court's finding of a wilful violation, the person shall forfeit and pay to the State a civil penalty of not more than \$10,000 for each violation. For purposes of this subchapter, a wilful violation occurs when the person committing the violation knew or should have known that the conduct was of the nature prohibited by this subchapter." [6 Del. Code § 2522\(b\)](#)





Statute

"It shall be unlawful for any person to charge more than the normal average retail price for any merchandise or service sold during a public health emergency declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), or during an emergency resulting from a natural disaster declared pursuant to subsection (b) of this section." [D.C. Code § 28-4102](#)

Penalty

"A person who violates § 28-4102(a) shall be subject to a fine of not more than \$1,000." [D.C. Code § 28-4103\(a\)](#)

"The Mayor may revoke, suspend, or limit the license, permit, or certificate of occupancy of a person who violates § 28-4102(a)." [D.C. Code § 28-4103\(a\)](#)

Emergency Declaration

On March 11, 2020, the Mayor declared a [state of emergency](#), which remains in effect through May 15, 2020.

Florida

Statute

"Upon a declaration of a state of emergency by the Governor, it is unlawful and a violation of s. 501.204 for a person or her or his agent or employee to rent or sell or offer to rent or sell at an unconscionable price within the area for which the state of emergency is declared, any essential commodity including, but not limited to, supplies, services, provisions, or equipment that is necessary for consumption or use as a direct result of the emergency." [Fla. Stat. § 501.160\(2\)](#)

"It is prima facie evidence that a price is unconscionable if:

- The amount charged represents a gross disparity between the price of the commodity or rental or lease of any dwelling unit or self-storage facility that is the subject of the offer or transaction and the average price at which that commodity or dwelling unit or self-storage facility was rented, leased, sold, or offered for rent or sale in the usual course of business during the 30 days immediately prior to a declaration of a state of emergency, unless the increase in the amount charged is attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of any dwelling unit or self-storage facility, or regional, national, or international market trends; or
- The amount charged grossly exceeds the average price at which the same or similar commodity was readily obtainable in the trade area during the 30 days immediately prior to a declaration of a state of emergency, unless the increase in the amount charged is attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of any dwelling unit or self-storage facility, or regional, national, or international market trends." [Fla. Stat. § 501.160\(1\)\(b\)](#)

Penalty

"In addition to all other remedies provided by the Florida Deceptive and Unfair Trade Practices Act, the court may 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 who violates the provisions of s. 501.160." [Fla. Stat. § 501.164](#)

Emergency Declaration

On March 9, 2020, the Governor declared a [state of emergency](#), which remains in effect through May 8, 2020.



Georgia

Statute

"It shall be an unlawful, unfair, and deceptive trade practice for any person, firm, or corporation doing business in any area in which a state of emergency, as such term is defined in Code Section 38-3-3, has been declared, for so long as such state of emergency exists, to sell or offer for sale at retail any goods or services identified by the Governor in the declaration of the state of emergency necessary to preserve, protect, or sustain the life, health, or safety of persons or their property at a price higher than the price at which such goods were sold or offered for sale immediately prior to the declaration of a state of emergency; provided, however, that such price may be increased only in an amount which accurately reflects an increase in cost of the goods or services to the person selling the goods or services or an increase in the cost of transporting the goods or services into the area." [Ga. Code. § 10-1-393.4](#)

Penalty

"Whenever the administrator or any court is imposing a penalty for any violations of Part 1, 2, or 4 of this article and the violation is a disaster related violation, in addition to any other applicable penalty there may be imposed an additional civil penalty not to exceed \$10,000.00 for each transaction." [Ga. Code. § 10-1-438](#)

According to the Office of the Attorney General, "[t]he Georgia Department of Law's Consumer Protection Division has the authority to investigate allegations of price gouging. Violators can be fined from \$2,000 to \$15,000 per violation." [Link](#)

Emergency Declaration

On March 14, 2020, the Governor declared a [state of emergency](#), which remains in effect through May 13, 2020.



Hawaii

Statute

"Whenever the governor declares a state of emergency for the entire State or any portion thereof, or a mayor declares a local state of emergency for the county or any portion thereof, or when the State, or any portion thereof, is the subject of a severe weather warning: There shall be prohibited any increase in the selling price of any commodity, whether at the retail or wholesale level, in the area that is the subject of the proclamation or the severe weather warning." [Hawaii Rev. Stat. §127A-30](#)

Penalty

"Any violation of this section shall constitute unfair methods of competition and unfair and deceptive acts or practices in the conduct of any trade or commerce under section 480-2 and shall be subject to a civil penalty as provided in section 480-3.1. Each item sold at a price that is prohibited by this section shall constitute a separate violation." [Hawaii Rev. Stat. §127A-30](#)

"Any person, firm, company, association, or corporation violating any of the provisions of section 480-2 shall be fined a sum of not less than \$500 nor more than \$10,000 for each violation, which sum shall be collected in a civil action brought by the attorney general or the director of the office of consumer protection on behalf of the State. The penalties provided in this section are cumulative to the remedies or penalties available under all other laws of this State. Each day that a violation of section 480-2 occurs shall be a separate violation." [Hawaii Rev. Stat. §480-3.1](#)

Emergency Declaration

On March 4, 2020, the Governor declared a [state of emergency](#), which remains in effect through April 30, 2020.



Statute

“The following unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared to be unlawful, where a person knows, or in the exercise of due care should know, that he has in the past, or is...[t]aking advantage of a disaster or emergency declared by the governor under chapter 10, title 46, Idaho Code, or the president of the United States under the provisions of the disaster relief act of 1974, 42 U.S.C. section 5121 et seq., by selling or offering to sell to the ultimate consumer fuel or food, pharmaceuticals, or water for human consumption at an exorbitant or excessive price; provided however, this subsection shall apply only to the location and for the duration of the declaration of emergency.” [Idaho Code §48-603\(19\)](#)

“In determining whether a price is exorbitant or excessive, the court shall take into consideration the facts and circumstances including, but not limited to:

- A comparison between the price paid by the alleged violator for the fuel, food, pharmaceuticals, or water and the price for which the alleged violator sold those same items to the ultimate consumer immediately before and after the period specified by the disaster or emergency declaration;
- Additional costs of doing business incurred by the alleged violator because of the disaster or emergency;
- The duration of the disaster or emergency declaration.” [Idaho Code §48-603\(19\)](#)

Penalty

“Civil penalties of up to five thousand dollars (\$5,000) per violation for violation of the provisions of this chapter.” [Idaho Code §48-606\(e\)](#).

Emergency Declaration

On March 11, 2020, the Governor declared a [state of emergency](#), which remains in effect through April 24, 2020.



Statute

“It shall be an unfair or deceptive act or practice, during any market emergency, for any petroleum-related business to sell or offer to sell any petroleum product for an amount that represents an unconscionably high price.” [Ill. Admin. Code tit.14, §465.30](#)

“A price is unconscionably high if:

- The amount charged represents a gross disparity between the price of the petroleum product and:
 - i The price at which the same product was sold or offered for sale by the petroleum-related business in the usual course of business immediately prior to the onset of the market emergency, or
 - ii The price at which the same or similar petroleum product is readily obtainable by other buyers in the trade area; and
- The disparity is not substantially attributable to increased prices charged by the petroleum-related business suppliers or increased costs due to an abnormal market disruption.” [Ill. Admin. Code tit.14, §465.30](#)

Penalty

“[T]he Attorney General or any State’s Attorney, or a municipality with a population of more than 1,000,000, may maintain an action for injunctive relief and also seek a civil penalty not exceeding \$50,000 in the circuit court against any person who violates any provision of this Section.” [815 ILCS 505/2](#)

“Any person who violates any provision of this Section, or the rules and regulations issued under this Section, shall be guilty of a Class A misdemeanor for a first offense and a Class 3 felony for a second or subsequent offense committed within 5 years of a previous conviction for the same offense.” [815 ILCS 505/2](#)

Emergency Declaration

Under the Governor’s April 1, 2020, [emergency declaration](#) “increases in the selling price of goods or services, including medical supplies, protective equipment, medications and other commodities intended to assist in the prevention of or treatment and recovery of COVID-19, shall be prohibited in the State of Illinois while this proclamation is in effect.”

The emergency declaration is in effect through April 30, 2020.



Indiana

Statute

“For purposes of this chapter price gouging means charging a consumer an unconscionable amount for the sale of fuel. Price gouging occurs if: (1) the amount charged grossly exceeds the average price at which fuel was readily obtainable within the retailer's trade area during the seven (7) days immediately before the declaration of emergency; and (2) the increase in the amount charged is not attributable to cost factors to the retailer, including replacement costs, taxes, and transportation costs incurred by the retailer.” [Ind. Code §4-6-9.1-2](#)

Penalty

“If the court finds that the retailer engaged in price gouging, the court may assess a civil penalty against the retailer. The civil penalty may not be more than one thousand dollars (\$1,000) per transaction.” [Ind. Code §4-6-9.1-5](#)

Emergency Declaration

On March 6, 2020, the Governor declared a [state of emergency](#), which remains in effect through May 5, 2020.



Statute

“The charge of excessive prices for merchandise needed by victims of disasters is hereby declared to constitute an unfair practice under the Consumer Fraud Act, Iowa Code section 714.16 (1993), and is subject to all penalties provided therein. For purposes of this rule, a per se violation of the Act exists when it is shown that a person has charged an excessive price for merchandise to be provided to persons within an area declared to be a disaster area during the period of any declaration of emergency and for the subsequent recovery period.”

[Iowa Admin. Code §61-31.1\(714\)](#)

“An ‘excessive price’ is one that is not justified by the seller’s actual costs of acquiring, producing, selling, transporting, and delivering the actual product sold, plus a reasonable profit.” [Iowa Admin. Code §61-31.1\(714\)](#)

Penalty

“In addition to the remedies otherwise provided for in this subsection, the attorney general may request and the court may impose a civil penalty not to exceed forty thousand dollars per violation against a person found by the court to have engaged in a method, act, or practice declared unlawful under this section; provided, however, a course of conduct shall not be considered to be separate and different violations merely because the conduct is repeated to more than one person.” [Iowa Code Section 714.16\(7\)](#)

Emergency Declaration

On March 9, 2020, the Governor declared a [state of emergency](#), which remains in effect through April 30, 2020.



Statute

“It shall be an unconscionable act within the meaning of K.S.A. 50-627, and amendments thereto, for any supplier to profiteer from a disaster.” [Kan. Stat. Ann. §50-6,106\(a\)](#)

“Profiteer from a disaster” means unjustifiably increasing during a time of disaster the price at which any necessary property or service is offered for sale to consumers. Actual sales at the increased price shall not be required for the increase to be considered unconscionable. In determining whether the price increase described in this subsection is unjustified, the court shall consider all relevant circumstances including, but not limited to, the following:

- Whether the price charged by the supplier during the time of disaster grossly exceeded the price charged by the supplier for similar property or services on the business day before the disaster, and an increase of more than 25% shall be *prima facie* evidence of gross excess.;
- Whether the increase in the amount charged by the supplier during the time of disaster was attributable to additional costs incurred by the supplier in connection with the sale of the product or service, and proof the supplier incurred such additional costs shall be *prima facie* evidence that the price increase was justified when such additional costs were actually incurred by the supplier during the period in which the substantially increased price was being charged;” and
- whether the increase in the amount charged by the supplier during the time of disaster was attributable to additional costs incurred by the supplier in connection with the sale of the product or service, and proof the supplier incurred such additional costs shall be *prima facie* evidence that the price increase was justified when such additional costs were actually incurred by the supplier during the period in which the substantially increased price was being charged. [Kan. Stat. Ann. §50-6,106\(b\)\(1\)](#)

Penalty

“The commission of any act or practice declared to be a violation of this act shall render the violator liable to the aggrieved consumer, or the state or a county as provided in subsection (c), for the payment of a civil penalty, recoverable in an individual action, including an action brought by the attorney general or county attorney or district attorney, in a sum set by the court of not more than \$10,000 for each violation.” [Kan. Stat. Ann. §50-636\(a\)](#)

“If any person is found to have violated any provision of the Kansas consumer protection act, and such violation is committed against a protected consumer, in addition to any civil penalty otherwise provided by law, the court may impose an additional civil penalty not to exceed \$10,000 for each such violation.” [Kan. Stat. Ann. §50-677](#)

Emergency Declaration

On March 12, 2020, the Governor declared a [state of emergency](#), which remains in effect through May 1, 2020.



Statute

“No person shall sell, rent, or offer to sell or rent, regardless of whether an actual sale or rental occurs, a good or service listed in this paragraph or any repair or reconstruction service for a price which is grossly in excess of the price prior to the declaration and unrelated to any increased cost to the seller.” [Ky. Rev. Stat. §367.374\(1\)\(b\)](#)

“A person's price does not violate this subsection if it is:

- Related to an additional cost imposed by a supplier of a good or other costs of providing the good or service, including an additional cost for labor or materials used to provide a service;
- Ten percent (10%) or less above the price prior to the declaration;
- Ten percent (10%) or less above the sum of the person's costs and normal markup for a good or service;
- Generally consistent with fluctuations in applicable commodity, regional, national, or international markets, or seasonal fluctuations; or
- A contract price, or the result of a price formula, established prior to the order implementing this subsection.” [Ky. Rev. Stat. §367.374\(1\)\(c\)](#)

Executive Order 2020-2468 extended the price gouging provisions through April 21, 2020, and notes that it “shall be subject to renewal thereafter.”

Penalty

“A willful violation of KRS 367.374 is punishable by a civil monetary penalty of an amount not to exceed five thousand dollars (\$5,000) for the first violation and an amount not to exceed ten thousand dollars (\$10,000) for each subsequent violation, with an aggregate total not to exceed twenty-five thousand dollars (\$25,000) for any twenty-four (24) hour period against any person who violates KRS 367.374.” [Ky. Rev. Stat. § 367.378](#)

Emergency Declaration

On March 6, 2020, the Governor declared a [state of emergency](#), which remains in effect indefinitely.



Louisiana

Statute

“During a state of emergency as declared by the governor or as declared by the parish president, the prices charged or value received for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged for comparable goods and services in the same market area at or immediately before the time of the state of emergency, unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges and attendant business risk incurred in procuring or selling the goods or services during the state of emergency. Notwithstanding any other provision of law to the contrary, it shall not be deemed a violation of this Section if the prices charged for goods and services sold within the designated emergency area by an individual in the same market area, at or immediately before the time of the emergency, have not changed except as allowed herein during a state of emergency declared in accordance with this Section.” [La. Rev. Stat. Ann. §29:732](#)

Penalty

"In addition to the civil penalties and restitutions for consumers, a willful violation of the price gouging statute is a criminal offense punishable by a fine up to \$500.00 or 6 months imprisonment, or both; imprisonment at hard labor for not more than 5 years where there is any serious bodily injury or any property damage in excess of \$5,000.00; and imprisonment at hard labor for not more than 21 years where a willful violation results in the death of any person" (<https://www.ag.state.la.us/Article/2209>)

Emergency Declaration

On March 11, 2020, the Governor declared a [state of emergency](#). On April 12, 2020, the Governor declared a [state of emergency](#) due to severe weather, which remains in effect through May 11, 2020.



Statute

“After the Governor has declared an abnormal market disruption and before the declaration of the abnormal market disruption expires, a person may not sell or offer for sale necessities at an unconscionable price.” [Me. Rev. Stat. Ann. tit. 10, §1105\(3\)](#)

- “There is a rebuttable presumption that a price is unconscionable when it exceeds by more than 15% the sum of:
 - i The price at which similar goods or services were offered for sale or sold by that person immediately prior to the beginning date of the abnormal market disruption. If that person did not offer such goods or services immediately prior to the abnormal market disruption, then the price is the price at which similar goods or services were offered for sale or sold by another person similarly situated prior to the abnormal market disruption; and
 - ii The increased cost calculated according to the method used by that person prior to the abnormal market disruption.” [Me. Rev. Stat. Ann. tit. 10, § 1105\(1\)](#)

Penalty

“A violation of subsection 3 is a civil violation that constitutes and may be prosecuted as an unfair act or practice in the conduct of trade or commerce pursuant to Title 5, section 207, except that the provisions of Title 5, section 213 do not apply.” [Me. Rev. Stat. Ann. tit. 10, §1105\(4\)](#)

“Each intentional violation of section 207 in which the Attorney General establishes that the conduct giving rise to the violation is either unfair or deceptive is a violation for which a civil penalty of not more than \$10,000 shall be adjudged.” [Me. Rev. Stat. Ann. Tit. 5, § 209.](#)

Declaration of an abnormal market disruption

“COVID-19 has created an abnormal market disruption with regard to the following necessities or categories of necessities in the State of Maine: 1) paper products; 2) cleaning supplies; 3) hand sanitizer; 4) personal hygiene products; 5) medicine and medical supplies; 6) food; and 7) water. . . . Pursuant to this declaration, a person may not sell or offer for sale these necessities at an unconscionable price and violations may be prosecuted as unfair acts or practices in the conduct of trade or commerce pursuant to *Title 5, section 207.*”

On March 17, 2020, the Governor declared an [abnormal market disruption](#) and remains in effect through May 16, 2020.



Proposed Statute (passed and pending Governor’s signature)

“As a result of the issuance by the Governor on March 5, 2020, of the proclamation declaring a state of emergency and the existence of a catastrophic health emergency or any other proclamation issued under Title 14 of the Public Safety Article relating to the outbreak of COVID–19, the Governor, for the duration of the emergency, may . . . prohibit a retailer from increasing the sale or rental price of any good or service to a price that increases the retailer’s value of profit by more than 10%, including for the price of: good; fuel; water and ice; medicine; medical supplies and equipment; cleaning products; building supplies and equipment; energy sources; and storage space.”

Executive Order

“Except to the extent preempted by applicable federal law, a retailer is prohibited from increasing the sale or rental price of the following goods or services to a price that increases the retailer’s value of profit by more than 10%: Food; Beverages; Fuel; Water; Ice; Medicine; Hygiene and personal care products; Medical supplies or equipment; Cleaning products; Pet food; Veterinary care; Motor vehicle parts and repairs; Building supplies and equipment; Home improvement and maintenance; Storage space; Delivery, including shipping and handling; Computers, related electronic devices, or software programs; Energy sources; Batteries; Internet, telephone, or telecommunications; Video streaming; Website hosting; and Child care.

“If the seller can prove that the increased price is directly attributable to increases in the cost of labor or materials needed to provide the good or service, the seller may not be liable under the statute.” (http://www.marylandattorneygeneral.gov/Pages/CPD/price_gouging_faq.aspx)

The Executive Order remains in effect until the termination of the state of emergency.

Penalty

Violations of the anti–price gouging order are a [violation](#) of the Consumer Protection Act and are subject to injunctive relief, mandatory disgorgement and consumer restitution, and civil penalties of \$10,000 per violation.

A violation is also subject to criminal prosecution as a misdemeanor.

Emergency Declaration

The Governor declared a [state of emergency](#) on March 5, 2020, which remains effect through May 10, 2020.



Statute

"It shall be an unfair or deceptive act or practice, during any declared statewide or national emergency, for any business at any point in the chain of distribution or manufacture to sell or offer to sell to any consumer or to any other business any goods or services necessary for the health, safety or welfare of the public for an amount that represents an unconscionably high price." [Addendum to Mass Reg. tit. 940, §3.18](#)

"A price is unconscionably high for the purpose of Paragraph 3 of this section if:

- There is gross disparity between price charged or offered and
 - i The price at which the same good or service was sold or offered for sale by the business in the usual course of business immediately prior to the onset of the declared statewide or national emergency, or
 - ii The price at which the same or similar product is readily obtainable from other businesses; and (b) the disparity is not substantially attributable to increased prices charged by the business's suppliers or increased costs due to an abnormal market disruption." [Addendum to Mass Reg. tit. 940, §3.18](#)

Penalty

The "court may issue temporary restraining orders or preliminary or permanent injunctions and make such other orders or judgments as may be necessary to restore to any person who has suffered any ascertainable loss by reason of the use or employment of such unlawful method, act or practice any moneys or property, real or personal, which may have been acquired by means of such method, act, or practice." [Mass. G.L. c. 93A §4](#)

"If the court finds that a person has employed any method, act or practice which he knew or should have known to be in violation of said section two, the court may require such person to pay to the commonwealth a civil penalty of not more than five thousand dollars for each such violation and also may require the said person to pay the reasonable costs of investigation and litigation of such violation, including reasonable attorneys' fees." [Mass. G.L. c. 93A §4](#)

Emergency Declaration

On March 10, 2020, the Governor issued an [EO 591](#) declaring a state of emergency that "shall remain in effect until notice is given, pursuant to my judgment, that the state of emergency no longer exists."



Michigan

Statute

"Unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade are unlawful and are defined as follows: . . . charging the consumer a price that is grossly in excess of the price at which similar property or services are sold." [Mich. Comp. Laws §445.903\(z\)](#)

Executive Order

"If a person has acquired any product from a retailer, the person must not resell that product in this state at a price that is grossly in excess of the purchase price at which the person acquired the product.

"A person must not offer for sale or sell any product in this state at a price that is more than 20% higher than what the person offered or charged for that product as of March 9, 2020, unless the person demonstrates that the price increase is attributable to an increase in the cost of bringing the product to market or to an extraordinary discount in effect as of March 9, 2020."

These enhanced restrictions will remain in place through May 15, 2020.

Penalty

"If the attorney general has probable cause to believe that a person has engaged, is engaging, or is about to engage in a method, act, or practice that is unlawful pursuant to section 3, and gives notice in accordance with this section, the attorney general may bring an action in accordance with principles of equity to restrain the defendant by temporary or permanent injunction from engaging in the method, act, or practice." [Mich. Comp. Laws §445.905](#)

"For persistent and knowing violation of section 3 the court may assess the defendant a civil fine of not more than \$25,000.00." [Mich. Comp. Laws §445.905](#)

Emergency Declaration

On March 10, 2020, the Governor declared a [state of emergency](#), which remains in effect indefinitely.



Minnesota

Statute

Minnesota does not have a price gouging law.

Executive Order

However, on March 20, 2020, the Governor signed an [Executive Order](#) stating: “all persons are prohibited from selling, offering to sell, or causing to sell in this state any essential consumer goods or services for an amount that represents an unconscionably excessive price.”

- “Unconscionably excessive” means:
 - i The amount charged represents a gross disparity between the price of the good or service and the price of the same good or service that was sold or offered for sale in the usual course of business during the thirty (30) days immediately prior to the peacetime emergency declared by Executive Order 20-01 on March 13, 2020, unless the person demonstrates that the disparity is substantially attributable to significant additional costs outside the control of the person; or
 - ii The amount charged for the good or service is more than twenty percent (20%) greater than the price of the same good or service that was sold or offered for sale in the usual course of business during the thirty (30) days immediately prior to the peacetime emergency declared by Executive Order 20-01 on March 13, 2020, unless the person demonstrates that the disparity is substantially attributable to significant additional costs outside the control of the person; or
 - iii The amount charged grossly exceeds the price at which the same or similar good or service is readily obtainable by other purchasers in the trade area, unless the person demonstrates that the price increase is substantially attributable to significant additional costs outside the control of the person.

Penalty

“Pursuant to Minnesota Statutes 2019, section 12.45, any person who is found to have violated this section is subject to a civil penalty of not more than \$10,000 per sale or transaction. The Attorney General may additionally seek any relief available pursuant to Minnesota Statutes 2019, section 8.31.”

Emergency Declaration

On March 13, 2020, the Governor issued [EO 20-01](#) declaring a state of emergency, which remains in effect through May 13, 2020.



Mississippi

Statute

"Whenever... a state of emergency or a local emergency is declared to exist in this state, then the value received for all goods and services sold within the designated emergency impact area shall not exceed the prices ordinarily charged for comparable goods or services in the same market area at or immediately before the declaration of a state of emergency or local emergency." [Miss. Code Ann. § 75-24-25](#).

"However, the value included may include: any expenses, the cost of the goods and services which are necessarily incurred in procuring such goods or services during a state of emergency or local emergency. The prices ordinarily charged for comparable goods or services in the same market do not include temporarily discounted goods or services. The same market does not necessarily mean a single provider of goods and services." [Miss. Code Ann. § 75-24-25](#)

Penalty

"Any person who knowingly and willfully violates subsection (2) of this section, when the total value received during a twenty-four-hour period is Five Hundred Dollars (\$ 500.00) or more, shall be guilty of a felony and upon conviction shall be punished by confinement for a term of not less than one (1) year nor more than five (5) years or a fine of not more than Five Thousand Dollars (\$ 5,000.00), or both." [Miss. Code Ann. § 75-24-25\(3\)](#)

"Any person who knowingly and willfully violates subsection (2) of this section, when the total value received during a twenty-four-hour period is less than Five Hundred Dollars (\$ 500.00), shall be guilty of a misdemeanor and upon conviction shall be fined not more than One Thousand Dollars (\$ 1,000.00) or by imprisonment in the county jail for a term not to exceed six (6) months, or both." [Miss. Code Ann. § 75-24-25\(4\)](#)

Emergency Declaration

On March 14, 2020, the Governor issued an [Emergency Proclamation](#) lasting indefinitely, but to be reviewed at least every 30 days.



Missouri

Statute

"It is an unfair practice for any person in connection with the advertisement or sale of merchandise to –

- 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;
- Charge within a disaster area an excessive price for any necessity; or
- 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." [Mo. Code Regs. tit. 15, § 60-8.030](#)

Penalty

Those who violate the price gouging provisions can face [penalties](#) of up to \$1,000.00 per violation.

Emergency Declaration

On March 13, 2020, the Governor issued [EO 20-02](#) declaring a state of emergency, which remains in effect through May 15, 2020.



Montana

Statute

Montana does not have a price gouging law.

Emergency Declaration

On March 12, 2020, the Governor declared a [state of emergency](#) indefinitely.

Press Release

On March 30, 2020, the Attorney General stated that “state law protects [consumers] from unfair and deceptive trade practices and price fixing.”

“Violations of 30-14-103 are subject to civil fines of up to \$20,000 for willful violations, and criminal sanctions of up to \$5,000 and one year in prison. Violations of 30-14-205 are subject to criminal penalties of up to five years in prison and a \$25,000 fine.”



Nebraska

Statute

Nebraska does not have a price gouging law.

Emergency Declaration

On March 13, 2020, the Governor declared a [state of emergency](#) indefinitely.



Nevada

Statute

Nevada does not have a price gouging statute

Executive Order

"Law enforcement, including the Nevada Attorney General, will diligently monitor and investigate a coordinated increase in prices for goods or services, and particularly goods or services necessary for the health and safety of the public or that result in economic hardships, making false representations, "bait and switch" practices, failure to disclose material facts in conjunction with the sale of goods or services, or the use of coercion, duress, or intimidation in a transaction in violation of consumer protection laws." EO 2020-03-12, § 5

Emergency Declaration

In [EO 2020-03-12](#), § 7, the Governor declared an emergency starting March 12, 2020 and "remain[ing] in effect until the Chief Medical Officer notifies the Governor that the health event has been abated and the Governor issues an order terminating the emergency."



New Hampshire



Statute

New Hampshire does not have a price gouging law.

Emergency Declaration

On March 13, 2020, the Governor declared a [state of emergency](#), which remains in effect through April 24, 2020.

Statute

"It shall be unlawful practice for any person to sell or offer to sell during a state of emergency or within 30 days of the termination of a state of emergency, in the area for which the state of emergency has been declared, any merchandise which is consumed or used as a direct result of an emergency or which is consumed or used to preserve, protect, or sustain the life, health, safety or comfort of persons or their property for a price that constitutes an excessive price increase." [N.J. Rev. Stat. § 56:8-109](#)

"Excessive price increase" means a price that is excessive as compared to the price at which the consumer good or service was sold or offered for sale by the seller in the usual course of business immediately prior to the state of emergency. A price shall be deemed excessive if:

- The price exceeds by more than 10 percent the price at which the good or service was sold or offered for sale by the seller in the usual course of business immediately prior to the state of emergency, unless the price charged by the seller is attributable to additional costs imposed by the seller's supplier or other costs of providing the good or service during the state of emergency;
- In those situations where the increase in price is attributable to additional costs imposed by the seller's supplier or additional costs of providing the good or service during the state of emergency, the price represents an increase of more than 10 percent in the amount of markup from cost, compared to the markup customarily applied by the seller in the usual course of business immediately prior to the state of emergency." [N.J. Rev. Stat. § 56:8-108](#)

Penalty

"Price gouging violations are punishable by civil penalties of up to \$10,000 for the first violation and \$20,000 for the second and subsequent violations. Violators may also be required to pay consumer restitution, attorney's fees, and investigative fees, and be subject to injunctive relief. Each sale of merchandise is considered a separate violation." [3/17 NJAG Release](#)

Emergency Declaration

The Governor issued [EO 103](#) on March 9, 2020 to "take effect immediately and ... remain in effect until such time as it is determined by me that an emergency no longer exists."



Statute

"Unconscionable trade practice" means an act or practice in connection with the sale, lease, rental or loan, or in connection with the offering for sale, lease, rental or loan, of any goods or services, including services provided by licensed professionals, or in the extension of credit or in the collection of debts that to a person's detriment: (1) takes advantage of the lack of knowledge, ability, experience or capacity of a person to a grossly unfair degree; or (2) results in a gross disparity between the value received by a person and the price paid." [N.M. Stat. § 57-12-2](#)

Press Release

On March 12, 2020, the Governor of New Mexico issued a [press release](#) stating "increasing prices on necessities like medical supplies, hand sanitizer, masks, and other items because our citizens are in fear of the coronavirus is simply unconscionable," and "anyone increasing prices in order to illegally profit from this emergency will be prosecuted."

Penalty

"In any action brought under Section 57-12-8 NMSA 1978, if the court finds that a person is willfully using or has willfully used a method, act or practice declared unlawful by the Unfair Practices Act, the attorney general, upon petition to the court, may recover, on behalf of the state of New Mexico, a civil penalty of not exceeding five thousand dollars (\$5,000) per violation." [N.J. Stat. § 57-12-11](#)

Emergency Declaration

On March 11, 2020, the Governor declared a [state of emergency](#), which remains in effect through April 30, 2020.



Statute

“During any abnormal disruption of the market for consumer goods and services vital and necessary for the health, safety and welfare of consumers, no party within the chain of distribution of such consumer goods or services or both shall sell or offer to sell any such goods or services or both for an amount which represents an unconscionably excessive price. For purposes of this section, the phrase "abnormal disruption of the market" shall mean any change in the market, whether actual or imminently threatened, ... which results in the declaration of a state of emergency by the governor. ... This prohibition shall apply to all parties within the chain of distribution, including any manufacturer, supplier, wholesaler, distributor or retail seller of consumer goods or services or both sold by one party to another when the product sold was located in the state prior to the sale. Consumer goods and services shall also include any repairs made by any party within the chain of distribution of consumer goods on an emergency basis as a result of such abnormal disruption of the market.” [N.Y. Gen. Bus. Law § 396-r\(2\)](#)

“Whether a price is unconscionably excessive is a question of law for the court...

- The court's determination that a violation of this section has occurred shall be based on any of the following factors: (i) that the amount of the excess in price is unconscionably extreme; or (ii) that there was an exercise of unfair leverage or unconscionable means; or (iii) a combination of both factors in subparagraphs (i) and (ii) of this paragraph.
- In any proceeding commenced pursuant to subdivision four of this section, prima facie proof that a violation of this section has occurred shall include evidence that
 - i the amount charged represents a gross disparity between the price of the goods or services which were the subject of the transaction and their value measured by the price at which such consumer goods or services were sold or offered for sale by the defendant in the usual course of business immediately prior to the onset of the abnormal disruption of the market; or
 - ii the amount charged grossly exceeded the price at which the same or similar goods or services were readily obtainable by other consumers in the trade area. A defendant may rebut a prima facie case with evidence that additional costs not within the control of the defendant were imposed on the defendant for the goods or services.” [N.Y. Gen. Bus. Law § 396-r\(3\)](#)

Penalty

"In any such proceeding, the court shall impose a civil penalty in an amount not to exceed [\$25,000] and, where appropriate, order restitution to aggrieved consumers.” [N.Y. Gen. Bus. Law § 396-r\(4\)](#)

Emergency Declaration

On March 7, 2020, the Governor issued [EO 202](#) declaring a state of emergency through September 7, 2020.



Statute

“Upon a triggering event, it is prohibited and shall be a violation of G.S. 75-1.1 for any person to sell or rent or offer to sell or rent any goods or services which are consumed or used as a direct result of an emergency or which are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being of persons or their property with the knowledge and intent to charge a price that is unreasonably excessive under the circumstances. This prohibition shall apply to all parties in the chain of distribution, including, but not limited to, a manufacturer, supplier, wholesaler, distributor, or retail seller of goods or services. This prohibition shall apply in the area where the state of disaster or emergency has been declared or the abnormal market disruption has been found.” [N.C. Gen. Stat. §75-38\(a\)](#)

“In determining whether a price is unreasonably excessive, it shall be considered whether:

- The price charged by the seller is attributable to additional costs imposed by the seller's supplier or other costs of providing the good or service during the triggering event.
- The price charged by the seller exceeds the seller's average price in the preceding 60 days before the triggering event. If the seller did not sell or rent or offer to sell or rent the goods or service in question prior to the time of the triggering event, the price at which the goods or service was generally available in the trade area shall be used as a factor in determining if the seller is charging an unreasonably excessive price.
- The price charged by the seller is attributable to fluctuations in applicable commodity markets; fluctuations in applicable regional, national, or international market trends; or to reasonable expenses and charges for attendant business risk incurred in procuring or selling the goods or services.” [N.C. Gen. Stat. §75-38\(a\)](#)

Penalty

“In any suit instituted by the Attorney General, in which the defendant is found to have violated G.S. 75-1.1 and the acts or practices which constituted the violation were, when committed, knowingly violative of a statute, the court may, in its discretion, impose a civil penalty against the defendant of up to five thousand dollars (\$5,000) for each violation.” [N.C. Gen. Stat. § 75-15.2](#)

Emergency Declaration

On March 10, 2020, the Governor declared a [state of emergency](#), which remains in effect indefinitely.



North Dakota

Statute

North Dakota does not have a price gouging statute.

Emergency Declaration

On March 13, 2020, the Governor declared a [state of emergency](#), which remains in effect until rescinded.



Ohio

Statute

“No supplier shall commit an unconscionable act or practice in connection with a consumer transaction. Such an unconscionable act or practice by a supplier violates this section whether it occurs before, during, or after the transaction.” [Ohio Rev. Code Ann. §1345.03 \(A\)](#)

“In determining whether an act or practice is unconscionable, the following circumstances shall be taken into consideration:

- Whether the supplier has knowingly taken advantage of the inability of the consumer reasonably to protect the consumer's interests because of the consumer's physical or mental infirmities, ignorance, illiteracy, or inability to understand the language of an agreement;
- Whether the supplier knew at the time the consumer transaction was entered into that the price was substantially in excess of the price at which similar property or services were readily obtainable in similar consumer transactions by like consumers.” [Ohio Rev. Code Ann. §1345.03 \(B\)\(1\)-\(2\)](#)

Penalty

“The attorney general may request and the court may impose a civil penalty of not more than twenty-five thousand dollars against the supplier.” [Ohio Rev. Code Ann. § 1345.07](#)

Emergency Declaration

On March, 9, 2020, the Governor declared a [state of emergency](#), which remains in effect indefinitely.



Oklahoma

Statute

“No person for the duration of a declaration of emergency by the Governor of this state or by the President of the United States and for thirty (30) days thereafter shall sell, rent, or lease, or offer to sell, rent, or lease, for delivery in the emergency area, any goods, services, dwelling units, or storage space in the emergency area at a rate or price which is more than ten percent (10%) above the rate or price charged by the person for the same or similar goods, services, dwelling units, or storage spaces immediately prior to the declaration of emergency unless the increase in the rate or price is attributable:

- To price increases in applicable regionally, national or international petroleum commodity markets; or
- Only to factors unrelated to the emergency and does not include any increase in profit to the seller or owner.” [Okla. Stat. tit. 15, §777.4](#)

Penalty

“Any person who is found to be in violation of the Oklahoma Consumer Protection Act in a civil action or who willfully violates the terms of any injunction or court order issued pursuant to the Consumer Protection Act shall forfeit and pay a civil penalty of not more than Ten Thousand Dollars (\$10,000.00) per violation, in addition to other penalties that may be imposed by the court, as the court shall deem necessary and proper.” [Okla. Stat. tit. 15, §761](#)

Emergency Declaration

On March, 15, 2020, the Governor declared a [state of emergency](#), which remains in effect through May 13, 2020.



Statute

“A merchant or wholesaler may not sell or offer to sell essential consumer goods or services for an amount that represents an unconscionably excessive price during a declaration of an abnormal disruption of the market.” [Or. Rev. Stat. §401.965\(2\)](#)

“It is a question of law whether a price is unconscionably excessive. Proof that a price is unconscionably excessive may be shown by evidence that:

- The amount charged for essential consumer goods or services exceeds by 15 percent or more the price at which the goods or services were sold or offered for sale by the merchant or wholesaler in the usual course of business immediately prior to or during a declaration of an abnormal disruption of the market; or
- The amount charged for the essential consumer goods or services exceeds by 15 percent or more the price at which the same or similar consumer goods or services were readily obtainable by other consumers in or near the geographical area covered by the declaration of an abnormal disruption of the market.” [Or. Rev. Stat. §401.965\(3\)](#)

It is “not prima facie evidence of a violation . . . if the amount charged by the merchant or wholesaler is: (a) Attributable to additional costs imposed by the merchant’s or wholesaler’s suppliers or necessarily incurred in procuring the essential consumer goods or services immediately prior to or during the declaration of an abnormal disruption of the market; or (b) The result of increased internal costs or expenses related to the declaration of an abnormal disruption of the market or the result of increased costs unrelated to the declaration of an abnormal disruption of the market.” [Or. Rev. Stat. §401.965\(4\)](#)

Penalty

“In any suit brought under ORS 646.632 (Enjoining unlawful trade practices), if the court finds that a person is willfully using or has willfully used a method, act or practice declared unlawful by ORS 646.607 (Unlawful business, trade practices) or 646.608 (Additional unlawful business, trade practices), the prosecuting attorney, upon petition to the court, may recover, on behalf of the state, a civil penalty to be set by the court of not exceeding \$25,000 per violation.” [Or. Rev. Stat. §646.642](#)

“Any person knowingly violating any provision of this chapter, or any of the rules, regulations or orders adopted and promulgated under this chapter, shall, upon conviction thereof, be guilty of a Class C misdemeanor.” [Or. Rev. Stat. §401.990](#)

Emergency Declaration

On March, 8, 2020, the Governor declared a [state of emergency](#), which remains in effect through May 7, 2020.



Pennsylvania

Statute

“During and within 30 days of the termination of a state of disaster emergency declared by the Governor ... it shall be a violation of this act for any party within the chain of distribution of consumer goods or services or both to sell or offer to sell the goods or services within the geographic region that is the subject of the declared emergency for an amount which represents an unconscionably excessive price.” [Penn. P.L. 1210, No. 133 §4\(a\)](#)

“Evidence of unconscionably excessive price.--It is prima facie evidence that a price is unconscionably excessive if, during and within 30 days of the termination of a state of disaster emergency, parties within the chain of distribution charge a price that exceeds an amount equal to or in excess of 20% of the average price at which the same or similar consumer goods or services were obtainable in the affected area during the last seven days immediately prior to the declared state of emergency.” [Penn. P.L. 1210, No. 133 §4\(b\)](#)

“The provisions of this section shall not apply if the increase in price is due to a disparity that is substantially attributable to additional costs that arose within the chain of distribution in connection with the sale of consumer goods or services, including replacement costs, credit card costs, taxes and transportation costs.” [Penn. P.L. 1210, No. 133 §4\(c\)](#)

“The provisions of this act shall not apply to the sale of goods or services sold by a person pursuant to a tariff or rate approved by a Federal or Commonwealth agency with power and authority over sales of such goods or services.” [Price Gouging Act, P.L. 1210, No. 133 §4\(c\)](#)

Penalty

“The Attorney General may bring an action to impose a civil penalty up to \$10,000 for each violation and to seek other relief, including injunctive relief.” [Penn. P.L. 1210, No. 133 §5\(a\)](#)

Emergency Declaration

On March, 6, 2020, the Governor declared a [state of emergency](#), which remains in effect until rescinded.



Puerto Rico

Statute

“[T]he prevention of speculative, unwarranted, and abnormal increases in prices; the elimination and prevention of excessive profits; hoarding, manipulation, speculation, and other disruptive practices resulting from abnormal market conditions and scarcity caused by the national emergency; the assurance that defense appropriations will not be dissipated by excessive prices; the protection and maintenance of the standard of living of persons whose incomes are limited; the prevention of such economic dislocations, as will result from abnormal increases in prices.” [23 L.P.R.A. § 731](#)

Emergency Declaration

On March, 13, 2020, the Governor declared a [state of emergency](#), which remains in effect until rescinded.



Rhode Island

Statute

“Upon a declaration of a state of emergency by the governor, or federal disaster declaration by the president, it shall be an unfair sales practice for individuals or retailers to participate in price gouging by making sales, or offering to sell, within the area for which the market emergency is declared, essential commodities to consumers for an amount that represents an unconscionably high price.” [R.I. Gen. Laws § 6-13-21](#)

Penalty

“The court may impose orders and civil penalties, including, but not limited to: (1) A fine of not more than one thousand dollars (\$1,000) per violation with an aggregate total not to exceed twenty-five thousand dollars (\$25,000) for any twenty-four-hour (24) period.” [R.I. Gen. Laws § 6-13-21](#)

Emergency Declaration

On March, 9, 2020, the Governor declared a [state of emergency](#), which remains in effect through May 8, 2020.



South Carolina

Statute

“In any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamationIt is unlawful for a person to: ... charge unconscionable prices during a declared state of emergency or disaster, as described in Section 39-5-145, or knowingly and willfully use a misleading practice or device to solicit the contribution or sale of goods or services for charitable purposes in connection with a declared state of emergency or disaster.” [S.C. Code Ann. §16-7-10](#)

Penalty

“In addition to all other remedies provided in this article, a person who wilfully and knowingly violates this section is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than one thousand dollars or imprisoned not more than thirty days, or both.” [S.C. Code Ann. §39-5-145\(K\)](#)

Emergency Declaration

On March, 13, 2020, the Governor declared a [state of emergency](#), which remains in effect through April 27, 2020.



South Dakota

Statute

There is no state price gouging law

Emergency Declaration

On March, 13, 2020, the Governor declared a [state of emergency](#), which remains in effect through May 31, 2020.



Tennessee

Statute

"Upon the declaration of an abnormal economic disruption by the governor by proclamation or executive order, and continuing for a maximum of fifteen (15) calendar days, unless extended by a subsequent declaration in any county or municipality covered by the abnormal economic disruption, a person is prohibited from charging any other person a price for the following goods or services that is grossly in excess of the price generally charged for the same or similar goods or services in the usual course of business: (A) Consumer food items; (B) Repair or construction services; (C) Emergency supplies; (D) Medical supplies; (E) Building materials; (F) Gasoline; (G) Transportation, freight, and storage services; or (H) Housing." [TN Code §47-18-5103\(a\)\(1\)](#)

"A price increase is not grossly excessive if the increase was directly attributable to: (1) Price increases in applicable regional, national, or international commodity markets; (2) Pricing set forth in any pre-existing agreement, including stored and in-transit inventory; (3) Additional costs imposed on the person by the supplier of the goods or services; or (4) Additional costs for labor, services, or materials used to provide the goods or services, including costs of replacement inventory, additional costs to transport goods or services, and additional labor charges." [TN Code §47-18-5103\(a\)\(1\)](#)

Penalty

"[A] violation of this subdivision (b)(32) shall be punishable by a nonremedial civil penalty of a minimum of one thousand dollars (\$1,000) to a maximum of five thousand dollars (\$5,000) per violation." [Tenn. Code §47-18-5104](#)

Emergency Declaration

On March, 12, 2020, the Governor declared a [state of emergency](#), which remains in effect through May 11, 2020.



Texas

Statute

“Subject to Section 17.4625, taking advantage of a disaster declared by the governor under Chapter 418, Government Code, or by the president of the United States by: selling or leasing fuel, food, medicine, lodging, building materials, construction tools, or another necessity at an exorbitant or excessive price; or demanding an exorbitant or excessive price in connection with the sale or lease of fuel, food, medicine, lodging, building materials, construction tools, or another necessity.” [Tex. Bus. & Comm. Code Ann. §17.46](#)

Penalty

“[A] civil penalty to be paid to the state in an amount of: not more than \$10,000 per violation; and if the act or practice that is the subject of the proceeding was calculated to acquire or deprive money or other property from a consumer who was 65 years of age or older when the act or practice occurred, an additional amount of not more than \$250,000.” [Tex. Bus. & Comm. Code Ann. §17.47\(c\)](#)

Emergency Declaration

On March, 6, 2020, the Governor declared a [state of emergency](#), which remains in effect indefinitely under the President’s national emergency declaration.



Statute

“If a state of emergency exists, a person may not charge a consumer an excessive price for goods or services sold or provided at retail ... If a good or service has not been sold by a person during the 30-day period immediately preceding the day on which the state of emergency is declared, a price is not excessive if it does not exceed 30% above the person's total cost of obtaining the good or providing the service.” [Utah Code Ann. § 13-41-201\(1\)](#)

“A person may charge an excessive price if: (a) that person's cost of obtaining the good or providing the service exceeds the average cost to the person of obtaining the good or providing the service in the 30-day period immediately preceding the day on which the state of emergency is declared; and (b) the price charged for the good or service does not exceed the sum of: (i) 10% above the total cost to that person of obtaining the good or providing the service; and (ii) the person's customary markup.” [Utah Code Ann. § 13-41-201\(2\)](#)

Penalty

“[T]he division may: (i) issue a cease and desist order; and (ii) subject to Subsection (3)(b), impose an administrative fine of up to \$1,000 for each violation of this chapter.” [Utah Code Ann. § 13-41-202\(a\)](#)

- “Each instance of charging an excessive price... constitutes a separate violation, but in no case shall the administrative fine imposed... exceed \$10,000 per day.”

Emergency Declaration

On March, 6, 2020, the Governor declared a [state of emergency](#), which remains in effect until rescinded.



Statute

"Market emergency' means any abnormal disruption of any market for petroleum products ... or any actual or threatened increase in the price of petroleum products or heating fuel products resulting from severe weather, convulsion of nature, supply manipulation, failure or shortage of electric power or other source of energy, strike, civil disorder, act of war, terrorist attack, national or local emergency, or other extraordinary adverse circumstances." [V.T. Stat. Ann. §2461d\(a\)\(1\)](#)

"It is an unfair and deceptive act and practice in commerce and a violation of section 2453 of this title for any petroleum or heating fuel-related business during a market emergency or seven days prior thereto to sell or offer to sell any petroleum product or heating fuel product for an amount that represents an unconscionably high price." [V.T. Stat. Ann. §2461d\(b\)](#)

"A price is unconscionably high if:

- The amount charged during the market emergency or seven days prior thereto represents a gross disparity between the price of the petroleum product or heating fuel product charged by the petroleum or heating fuel related business and:
 - i The price at which the same product was sold or offered for sale by that business in the usual course of business immediately prior to the date of the declaration of the market emergency; or
 - ii The price at which the same or similar petroleum product or heating fuel product is readily obtainable by the buyer and other buyers in the trade area in which the petroleum- or heating-fuel-related business markets the product; and
- The disparity is not substantially attributable to increased prices charged by the petroleum product or heating fuel product suppliers or increased costs due to a market emergency." [V.T. Stat. Ann. §2461d\(c\)\(2\)](#)

Penalty

"Any person who violates the terms of an injunction issued under section 2458 of this title shall forfeit and pay to the State a civil penalty of not more than \$10,000.00 for each violation." [V.T. Stat. Ann. §2461](#)

Emergency Declaration

On March, 13, 2020, the Governor declared a [state of emergency](#), which remains in effect through May 15, 2020.



Statute

"During any time of disaster, it shall be unlawful for any supplier to sell, lease, or license, or to offer to sell, lease, or license, any necessary goods and services at an unconscionable price within the area for which the state of emergency is declared. Actual sales at the increased price shall not be required for the increase to be considered unconscionable." [V.A. Code § 59.1-527](#)

"In determining whether a price increase is unconscionable, the following shall be considered:

- Whether the price charged by the supplier grossly exceeded the price charged by the supplier for the same or similar goods or services during the 10 days immediately prior to the time of disaster, provided that, with respect to any supplier who was offering a good or service at a reduced price immediately prior to the time of disaster, the price at which the supplier usually offers the good or service shall be used as the benchmark for these purposes;
- Whether the price charged by the supplier grossly exceeded the price at which the same or similar goods or services were readily obtainable by consumers in the trade area during the 10 days immediately prior to the time of disaster;
- Whether the increase in the amount charged by the supplier was attributable solely to additional costs incurred by the supplier in connection with the sale of the goods or services, including additional costs imposed by the supplier's source. Proof that the supplier incurred such additional costs during the time of disaster shall be prima facie evidence that the price increase was not unconscionable; and
- Whether the increase in the amount charged by the supplier was attributable solely to a regular seasonal or holiday adjustment in the price charged for the good or service. Proof that the supplier regularly increased the price for a particular good or service during portions of the period covered by the time of disaster would be prima facie evidence that the price increase was not unconscionable during those periods." [V.A. Code § 59.1-527](#)

Penalty

"In any action brought under this chapter, if the court finds that a person has willfully engaged in an act or practice in violation of § [59.1-200](#) or [59.1-200.1](#), the Attorney General, the attorney for the Commonwealth, or the attorney for the county, city, or town may recover for the Literary Fund, upon petition to the court, a civil penalty of not more than \$2,500 per violation." [V.A. Code § 59.1-206](#)

Emergency Declaration

On March, 12, 2020, the Governor declared a [state of emergency](#), which remains in effect through June 10, 2020.



Washington

Proposed Statute

There is currently no state price gouging law but Senate Bill 6699 has been introduced.

"During a time of disaster, it is unlawful for a person to sell or offer to sell any consumer food items or goods; goods or services used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight, and storage services; or gasoline or other motor fuels for a price of more than ten percent greater than the price charged by that person for those goods or services immediately prior to the proclamation or declaration of an emergency." [Wash. Senate Bill 6699 §1\(a\)](#)

Proposed Penalty

"In the case of a violation of this section committed against a protected consumer, in addition to any civil penalty otherwise provided by law, the court may impose an additional civil penalty not to exceed ten thousand dollars for each violation." Wash. Senate Bill 6699 §1(b)(3)

Emergency Declaration

On February 29, 2020, the Governor declared a [state of emergency](#), which remains in effect until rescinded.



Statute

“Upon the declaration of a state of emergency or state of preparedness, and continuing for the existence of the state of emergency or state of preparedness or for thirty days following the declaration, whichever period is longer, it is unlawful for any person, contractor, business, or other entity to sell or offer to sell to any person in the area subject to the declaration any consumer food items, essential consumer items, goods used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight and storage services, or gasoline or other motor fuels for a price greater than ten percent above the price charged by that person for those goods or services on the tenth day immediately preceding the declaration of emergency state of preparedness, unless the increase in price is directly attributable to additional costs imposed on the seller by the supplier of the goods or directly attributable to additional costs for labor or materials used to provide the services.” [W.V. Code §46A-6J-3](#)

- “Provided, [t]hat in those situations where the increase in price is attributable to additional costs imposed by the seller's supplier or additional costs of providing the good or service during the state of emergency or state of preparedness, the price is no greater than ten percent 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 on the tenth day immediately preceding the declaration.” [W.V. Code §46A-6J-3](#)

Penalty

“The Attorney General may bring a civil action against a creditor or other person to recover a civil penalty for willfully violating this chapter, and if the court finds that the defendant has engaged in a course of repeated and willful violations of this chapter, it may assess a civil penalty of no more than \$5,000 for each violation of this chapter.” [W.V. Code §46A-7-109](#)

"Any person violating the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or confined in the county or regional jail not more than one year, or both." [W.V. Code §46A-6J-5](#)

Emergency Declaration

On March, 16, 2020, the Governor issued an [executive order](#) declaring a state of emergency, and also stated "I hereby order that it is unlawful for any person, business, or other entity to sell any food items, essential consumer items, and emergency supplies in a manner that violates the provision of section three, article six J, chapter forty-six A of the Code of West Virginia."



Statute

"Except as provided in sub. (2), no seller may sell a consumer good or service in an emergency area during an emergency period at a price that is more than 15% above the highest price at which the seller sold like consumer goods or services to like customers in the relevant trade area during the 60-day period immediately preceding the emergency declaration." [Wis. Stat. §106.01\(1\)](#)

"The prohibition in sub. (1) does not apply to a sale if, at the time of sale, the seller possesses and relies upon accurate information that demonstrates any of the following:

- The selling price does not exceed the seller's cost plus normal markup.
- The selling price is required by law.
- The emergency declaration directly or impliedly exempted the sale from coverage under the emergency declaration." [Wis. Stat. §106.01\(2\)](#)

"No seller may sell, or offer to sell, in this state at wholesale or at retail, consumer goods or services at unreasonably excessive prices if the governor, by executive order, has certified that the state or a part of the state is in a period of abnormal economic disruption." [Wis. Stat. §100.305\(2\)](#)

Penalty

"If a seller violates sub. (2), the department... may do any of the following: Issue to the seller a warning notice ... [or] [c]ommence an action against the seller in the name of the state to recover a civil forfeiture of not more \$10,000 or to temporarily or permanently restrain or enjoin the seller from violating sub. (2), or both." [Wis. Stat. §100.305\(4\)](#)

Emergency Declaration

On March, 12, 2020, the Governor declared a [state of emergency](#), which remains in effect until rescinded.



Wyoming

Statute

There is no state price gouging law

Emergency Declaration

On March, 13, 2020, the Governor declared a [state of emergency](#), which remains in effect until rescinded.



We hope this reference guide will serve as a useful tool to help your business manage price gouging compliance during the COVID-19 emergency.

Please visit [Proskauer on Price Gouging](#) for in-depth insights and the latest updates concerning price gouging compliance issues nationwide.

