

8801

I N A S S E M B L Y

(PREFILED)

January 4, 2012

Introduced by M. of A. N. RIVERA -- read once and referred to the
Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to the price gouging of medicine; and to amend the penal law, in relation to expanding the definition of manslaughter in the second degree

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions 2 and 4 of section 396-r of the general busi-
2 ness law, subdivision 2 as amended by chapter 510 of the laws of 1998
3 and subdivision 4 as amended by chapter 224 of the laws of 2008, are
4 amended to read as follows:
5 2. During any abnormal disruption of the market for consumer goods,
6 MEDICINE and services vital and necessary for the health, safety and
7 welfare of consumers, no party within the chain of distribution of such
8 consumer goods or services or both shall sell or offer to sell any such
9 goods or services or both for an amount which represents an unconscion-
10 ably excessive price. For purposes of this section, the phrase "abnormal
11 disruption of the market" shall mean any change in the market, whether
12 actual or imminently threatened, resulting from stress of weather,
13 convulsion of nature, failure or shortage of electric power or other
14 source of energy, strike, civil disorder, war, military action, national
15 or local emergency, or other cause of an abnormal disruption of the
16 market which results in the declaration of a state of emergency by the
17 governor. For the purposes of this section, the term consumer goods and
18 services shall mean those used, bought or rendered primarily for
19 personal, family or household purposes. This prohibition shall apply to
20 all parties within the chain of distribution, including any manufactur-
21 er, supplier, wholesaler, distributor or retail seller of consumer goods
22 or services or both sold by one party to another when the product sold
23 was located in the state prior to the sale. Consumer goods and services
24 shall also include any repairs made by any party within the chain of
25 distribution of consumer goods on an emergency basis as a result of such
26 abnormal disruption of the market. FOR PURPOSES OF THIS SECTION, THE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 TERM "MEDICINE" SHALL MEAN ANY SUBSTANCE USED AS A REMEDY FOR TREATING,
2 CURING OR PREVENTING AN INJURY, ILLNESS OR DISEASE.

3 4. (A) Where a violation of this section is alleged to have occurred,
4 the attorney general may apply in the name of the People of the State of
5 New York to the supreme court of the State of New York within the judi-
6 cial district in which such violations are alleged to have occurred, on
7 notice of five days, for an order enjoining or restraining commission or
8 continuance of the alleged unlawful acts. In any such proceeding, the
9 court shall impose a civil penalty in an amount not to exceed [twenty-
10 five] FIFTY thousand dollars and, where appropriate, order restitution
11 to aggrieved consumers.

12 (B) IN ADDITION TO ANY ACTION BROUGHT BY THE ATTORNEY GENERAL PURSUANT
13 TO PARAGRAPH (A) OF THIS SUBDIVISION, A PERSON INJURED BY A VIOLATION OF
14 THIS SECTION MAY BRING AN ACTION TO RECOVER DAMAGES.

15 S 2. Section 125.15 of the penal law is amended to read as follows:
16 S 125.15 Manslaughter in the second degree.

17 A person is guilty of manslaughter in the second degree when:

18 1. He OR SHE recklessly causes the death of another person; or

19 2. He OR SHE commits upon a female an abortifacient act which causes her
20 death, unless such abortifacient act is justifiable pursuant to subdivision
21 three of section 125.05; [or]

22 3. He OR SHE intentionally causes or aids another person to commit
23 suicide; OR

24 4. HE OR SHE IS THE OWNER, PARTNER, CHIEF EXECUTIVE OFFICER OR CHIEF
25 FINANCIAL OFFICER OF A BUSINESS FOUND BY A COURT TO BE IN VIOLATION OF
26 THE PROVISIONS OF SECTION THREE-HUNDRED NINETY-SIX-R OF THE GENERAL
27 BUSINESS LAW, AND THE VIOLATION CAUSES THE DEATH OF ANOTHER PERSON.

28 Manslaughter in the second degree is a class C felony.

29 S 3. This act shall take effect immediately, provided, however, that
30 section two of this act shall take effect on the first of November next
31 succeeding the date on which it shall have become a law.