

S T A T E   O F   N E W   Y O R K

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8801--A

I N   A S S E M B L Y

(PREFILED)

January 4, 2012

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Introduced by M. of A. N. RIVERA, HOOPER, WEPRIN -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to the price gouging of medicine

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, MEDICINE or services [or both] shall sell or offer to  
9     sell any such goods, MEDICINE or services [or both] for an amount which  
10    represents an unconscionably excessive price. For purposes of this  
11    section, the phrase "abnormal disruption of the market" shall mean any  
12    change in the market, whether actual or imminently threatened, resulting  
13    from stress of weather, convulsion of nature, failure or shortage of  
14    electric power or other source of energy, strike, civil disorder, war,  
15    military action, national or local emergency, or other cause of an  
16    abnormal disruption of the market which results in the declaration of a  
17    state of emergency by the governor. For the purposes of this section,  
18    the term consumer goods and services shall mean those used, bought or  
19    rendered primarily for personal, family or household purposes. This  
20    prohibition shall apply to all parties within the chain of distribution,  
21    including any manufacturer, supplier, wholesaler, distributor or retail  
22    seller of consumer goods or services or both sold by one party to another  
23    when the product sold was located in the state prior to the sale.  
24    Consumer goods and services shall also include any repairs made by any  
25    party within the chain of distribution of consumer goods on an emergency

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

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1 basis as a result of such abnormal disruption of the market. FOR  
2 PURPOSES OF THIS SECTION, THE TERM "MEDICINE" SHALL MEAN ANY SUBSTANCE  
3 USED AS A REMEDY FOR TREATING, CURING OR PREVENTING AN INJURY, ILLNESS  
4 OR DISEASE.

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

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

17 S 2. This act shall take effect immediately.