

8801--B

I N A S S E M B L Y

(PREFILED)

January 4, 2012

Introduced by M. of A. N. RIVERA, HOOPER, WEPRIN, CASTRO, ORTIZ, CRESPO
-- Multi-Sponsored by -- M. of A. DUPREY, ROBINSON, SCHIMEL -- 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 -- again reported from said commit-
tee with amendments, ordered reprinted as amended and recommitted to
said committee

AN ACT to amend the general business law, in relation to the price goug-
ing of medicine

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, 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 anoth-

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

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1 er when the product sold was located in the state prior to the sale.
2 Consumer goods and services shall also include any repairs made by any
3 party within the chain of distribution of consumer goods on an emergency
4 basis as a result of such abnormal disruption of the market. FOR
5 PURPOSES OF THIS SECTION, THE TERM "MEDICINE" SHALL MEAN ANY SUBSTANCE
6 USED AS A REMEDY FOR TREATING, CURING OR PREVENTING AN INJURY, ILLNESS
7 OR DISEASE.

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

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

20 S 2. This act shall take effect immediately.