

6514

I N S E N A T E

February 21, 2012

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

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
26 basis as a result of such abnormal disruption of the market. FOR
27 PURPOSES OF THIS SECTION, THE TERM "MEDICINE" SHALL MEAN ANY SUBSTANCE

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

LBD13546-06-2

1 USED AS A REMEDY FOR TREATING, CURING OR PREVENTING AN INJURY, ILLNESS
2 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 thousand dollars and, where appropriate, order restitution to
11 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. This act shall take effect immediately.