STATE OF NEW YORK

10159

IN ASSEMBLY

March 24, 2020

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

AN ACT to amend the general business law, in relation to prohibiting price gouging with respect to medical supplies during a public health emergency

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new section 396-rrr to read as follows:

§ 396-rrr. Price gouging; medical supplies during a public health emergency. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "public health emergency" shall mean a period of time during which the governor has made a state declaration of disaster emergency pursuant to section twenty-eight of the executive law; and

(b) "consumer medical supplies" shall mean goods and products used, bought or rendered primarily for personal, family, or household purposes used for the care, cure, mitigation, treatment, or prevention of illnesses or diseases; such term shall include, but not be limited to: bandages, gauze, or dressings; hand sanitizer, antibiotic ointment, rubbing alcohol, hydrogen peroxide, saline solution; medical or surgical masks; medical or surgical gloves; tissues; over-the-counter medications; and any other goods or products identified in emergency regulations promulgated by the commissioner of the department of health during a public health emergency.

2. No manufacturer, supplier, wholesaler, distributor or retail seller of consumer medical supplies shall sell or offer for sale any such consumer medical supplies for an amount which represents an unconscionably excessive price during a public health emergency.

3. (a) A price is not an "unconscionably excessive price" if it is ten percent or less above the price charged by that seller for such consumer medical supplies immediately prior to the public health emergency.

(b) A defendant may rebut a prima facie case based on an alleged violation of this section with evidence that additional costs not within

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

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the control of the defendant were imposed on the defendant for the consumer medical supplies.

4. Where a violation of this section is alleged to have occurred, the attorney general may apply in the name of the people of the state of New York to the supreme court of the state of New York within the judicial district in which such violations are alleged to have occurred, on notice of five days, for an order enjoining or restraining commission or continuance of the alleged unlawful acts. In any such proceeding, the court shall impose a civil penalty in an amount not to exceed twenty-five thousand dollars and, where appropriate, order restitution to aggrieved consumers.

§ 2. This act shall take effect immediately.