

STATE OF NEW YORK

7932

IN SENATE

March 3, 2020

Introduced by Sens. HOYLMAN, KENNEDY -- 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 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 Assem-
bly, do enact as follows:

1 Section 1. The general business law is amended by adding a new section
2 396-rrr to read as follows:

3 § 396-rrr. Price gouging; medical supplies during a public health
4 emergency. 1. For the purposes of this section, the following terms
5 shall have the following meanings:

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

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

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

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

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

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1 (b) A defendant may rebut a prima facie case based on an alleged
2 violation of this section with evidence that additional costs not within
3 the control of the defendant were imposed on the defendant for the
4 consumer medical supplies.

5 4. Where a violation of this section is alleged to have occurred, the
6 attorney general may apply in the name of the people of the state of New
7 York to the supreme court of the state of New York within the judicial
8 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 thousand dollars and, where appropriate, order restitution to
13 aggrieved consumers.

14 § 2. This act shall take effect immediately.