STATE OF NEW YORK

5653

2023-2024 Regular Sessions

IN ASSEMBLY

March 20, 2023

Introduced by M. of A. REYES, WILLIAMS, OTIS, WALSH -- read once and referred to the Committee on Consumer Affairs and 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:

Section 1. Subdivision 2 of section 396-r of the general business law, as amended by chapter 90 of the laws of 2020, is amended to read as follows:

2. **(a)** During any abnormal disruption of the market for goods and services vital and necessary for the health, safety and welfare of consumers or the general public, no party within the chain of distribution of such goods or services or both shall sell or offer to sell any such goods or services or both for an amount which represents an unconscionably excessive price.

(b) For purposes of this section, the phrase "abnormal disruption of the market" shall mean any change in the market, whether actual or imminently threatened, resulting from stress of weather, convulsion of nature, failure or shortage of electric power or other source of energy, strike, civil disorder, war, military action, national or local emergency, **drug shortage,** or other cause of an abnormal disruption of the market which results in the declaration of a state of emergency by the governor. **For purposes of this section, the term drug shortage shall mean the issuance of a notice by the U.S. Food and Drug Administration pursuant to section 506C-1 of the federal Food Drugs and Cosmetics Act or any successor provision thereof.**

(c) For the purposes of this section, the term goods and services shall include [~~(a)~~] **(i)** consumer goods and services used, bought or rendered primarily for personal, family or household purposes, [~~(b)~~] **(ii)** essential medical supplies and services used for the care, cure, mitigation, treatment or prevention of any illness or disease, and [~~(c)~~]

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

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(iii) any other essential goods and services used to promote the health or welfare of the public. This prohibition shall apply to all parties within the chain of distribution, including any manufacturer, supplier, wholesaler, distributor or retail seller of goods or services or both sold by one party to another when the product sold was located in the state prior to the sale. Goods and services shall also include any repairs made by any party within the chain of distribution of goods on an emergency basis as a result of such abnormal disruption of the market.

§ 2. This act shall take effect immediately.