

# STATE OF NEW YORK

5653--B

Cal. No. 175

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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

4 2. (a) During any abnormal disruption of the market for goods and  
5 services vital and necessary for the health, safety and welfare of  
6 consumers or the general public, no party within the chain of distrib-  
7 ution of such goods or services or both shall sell or offer to sell any  
8 such goods or services or both for an amount which represents an uncon-  
9 scionably excessive price.

10 (b) For purposes of this section, the phrase "abnormal disruption of  
11 the market" shall mean any change in the market, whether actual or immi-  
12 nently threatened, resulting from stress of weather, convulsion of  
13 nature, failure or shortage of electric power or other source of energy,  
14 strike, civil disorder, war, military action, national or local emergen-  
15 cy, drug shortage, or other cause of an abnormal disruption of the  
16 market which results in the declaration of a state of emergency by the  
17 governor.

18 (c) For purposes of this section, the term "drug shortage" shall mean,  
19 with respect to any drug or medical product intended for human use, that  
20 such drug or medical product is publicly reported as being subject to a  
21 shortage by the U.S. Food and Drug Administration.

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

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1     (d) For the purposes of this section, the term "goods and services"  
2 shall include [~~(a)~~] (i) consumer goods and services used, bought or  
3 rendered primarily for personal, family or household purposes, [~~(b)~~]  
4 (ii) essential medical supplies and services used for the care, cure,  
5 mitigation, treatment or prevention of any illness or disease, and [~~(c)~~]  
6 (iii) any other essential goods and services used to promote the health  
7 or welfare of the public.

8     (e) This prohibition shall apply to all parties within the chain of  
9 distribution, including any manufacturer, supplier, wholesaler, distrib-  
10 utor or retail seller of goods or services or both sold by one party to  
11 another when the product sold was located in the state prior to the  
12 sale. [~~Goods~~] For the purposes of this subdivision, the term "goods and  
13 services" shall also include any repairs made by any party within the  
14 chain of distribution of goods on an emergency basis as a result of such  
15 abnormal disruption of the market.

16     § 2. This act shall take effect immediately.