STATE OF NEW YORK

608--B

Cal. No. 77

2023-2024 Regular Sessions

IN SENATE

January 5, 2023

Introduced by Sens. SALAZAR, BRISPORT, GIANARIS, HELMING, JACKSON, KRUEGER, LANZA, LIU, SANDERS, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Rules -- reported favorably from said committee, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in 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:

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.

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

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

(d) 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)~~] **(iii)** any other essential goods and services used to promote the health or welfare of the public.

(e) 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~~] **For the purposes of this subdivision, the term "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.