STATE OF NEW YORK

2737

2025-2026 Regular Sessions

IN ASSEMBLY

January 22, 2025

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

AN ACT to amend the general business law, in relation to food product price gouging

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 369-aa to read as follows:

§ 369-aa. Price gouging; food and food products. 1. (a) No party within the chain of distribution of food and food products shall sell or offer to sell any such goods for an amount which represents an unconscionably excessive price.

(b) For the purposes of this section, the term "food and food products" shall include all articles of food, drink, confectionery or condiment, whether simple, mixed or compound, used or intended for use by humans or animals, and shall also include all substances or ingredients to be added to food for any purpose.

(c) This prohibition shall apply to all parties within the chain of distribution, including any manufacturer, supplier, wholesaler, distributor or retail seller of food and food products or both sold by one party to another when the product sold was located in the state prior to the sale.

2. Whether a price is unconscionably excessive is a question of law for the court.

(a) The court's determination that a violation of this section has occurred shall be based on any of the following factors: (i) that the amount of the excess in price is unconscionably extreme; or (ii) that there was an exercise of unfair leverage or unconscionable means; or (iii) a combination of both factors in subparagraphs (i) and (ii) of this paragraph.

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

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(b) In any proceeding commenced pursuant to subdivision four of this section, prima facie proof that a violation of this section has occurred shall include evidence that: (i) the amount charged represents a gross disparity between the price of the food and food products which were the subject of the transaction and their value measured by the price at which such food and food products were sold or offered for sale by the defendant in the usual course of business; or (ii) the amount charged grossly exceeded the price at which the same or similar food and food products were readily obtainable in the trade area.

(c) A defendant may rebut a prima facie case with evidence that: (i) the increase in the amount charged preserves the margin of profit that the defendant received for the same food and food products; or (ii) additional costs not within the control of the defendant were imposed on the defendant for the food and food products.

3. 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 per violation or three times the gross receipts for the relevant food and food products, whichever is greater and, where appropriate, order restitution to aggrieved parties.

4. The attorney general may promulgate such rules and regulations as are necessary to effectuate and enforce the provisions of this section.

§ 2. This act shall take effect immediately.