

PRICE GOUGING LAW

Quick Reference Guide

CURRENT LAWS AS OF MAY 6, 2020



INTRODUCTION

Emergency declarations issued in connection with the current pandemic have triggered a patchwork of federal and state consumer protection laws impacting numerous industries and players at every level of the supply chain. Federal and state law enforcement are closely monitoring COVID 19-related issues, including potential gouging of prices for critical health, food and consumer materials. Federal and state task forces have been created, prosecutions have commenced, and thousands of citizen and industry complaints are being investigated. Companies managing escalating costs across their supply chains must remain acutely attuned to the pricing restrictions newly applicable under federal and state law, which differ in the types of goods protected, how price gouging is defined, assessed and penalized, and the timeframes covered.

It is important in this context to consider that:

- While the current focus of federal anti-gouging enforcement is excessive price increases on designated medical supplies and equipment that are critical to the healthcare profession's response to COVID-19, most state provisions extend more broadly to cover the food supply, consumer products, and other vital goods and services.
- These anti-gouging provisions can be quickly amplified or altered as needed by federal or state executive orders.
- While anti-gouging provisions vary from state to state, the majority implicate the full supply chain and can be used to target excessive price increases at any level of that chain.
- In many cases, the anti-gouging provisions are the functional equivalent of a price cap.
- States without specific anti-gouging provisions may still utilize deceptive trade practices and other consumer protection laws to penalize what they view to be excessive pricing.
- Violations can often result in civil and criminal penalties, up to and including imprisonment, and typically will expose liable parties to fines, restitution, injunctive relief and/or significant reputational harm.

The accompanying chart sets forth a summary of the applicable federal and state anti-gouging laws and orders presently in effect. Should you have any questions regarding these laws, how best to structure compliance protocols, or what steps to take when addressing a government price gouging investigation, please do not hesitate to contact the authors, or any member of McGuireWoods' COVID-19 Response Team.

STATE	LAW/REG	COVERAGE	TRIGGER & DURATION	TRIGGER DATE	PRICE LIMITATIONS	EXCEPTIONS	PENALTIES
Federal	Defense Production Act, 50 U.S.C. § 4512 ; Executive Order 13910	N-95 and other respirators, ventilators, designated drugs, medical device sterilization services and equipment, disinfecting devices, medical gowns or apparel, PPE (coveralls, face masks, surgical masks, face shields, gloves or surgical gloves)	Executive Order designating "scarce" or "threatened" supplies	March 23, 2020 (EO Effective Date)	Resale at prices in excess of prevailing market prices	No	Up to \$10,000 criminal penalty per violation and 1 year in prison
Alabama	Alabama Code § 8-31-1, et seq.	Any consumer goods or services, including food, water, ice, chemicals, petroleum products and lumber "necessary for consumption or use as a direct result of the emergency"	Declaration of Emergency; duration of the declared emergency	March 13, 2020 (Emergency Declared)	25% price increase over the price obtainable in the affected area during the 30 days immediately prior to the declared emergency is prima facie "unconscionable price," although lower prices could still be found "unconscionably high"	If the price increase is "attributable to reasonable costs incurred in connection with" the sale of the good or service	Up to \$1,000 civil penalty per violation, capped at \$25,000 per 24 hour period
Alaska	Alaska Ch. 10 SLA 20 § 26 (SB 241)	Food, medicine, medical equipment, fuel, sanitation products, hygiene products, essential household supplies and other essential goods	Declaration of Emergency; duration of the declared emergency	March 11, 2020 (Emergency Declared)	10% over the prices charged before the declared emergency	If the price that exceeds 10% is caused by an increased cost for the seller to purchase supplies or, for a business selling fuel, caused by normal market fluctuations	Civil penalty of \$1,000 to \$25,000 per violation
Arizona	N/A (typical Unfair and Deceptive Trade Practices/Consumer Protection laws apply)						
Arkansas	Arkansas Code § 4-88-301, et seq.	Consumer food items or goods, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight and storage services, gasoline or other motor fuel	Declaration of Emergency; 30 days, with indefinite extension allowed	March 11, 2020 (Emergency Declared)	10% increase of price "charged by that person for those goods or services immediately prior to the proclamation of emergency"	Greater price increase is allowable if the person can show it was "directly attributable to additional costs imposed on it by the supplier of the goods or directly attributable to additional costs for labor or materials used to provide the services," so long as the price is no more than 10% above the cost to the seller plus their customary markup pre-emergency; if they were selling at reduced prices pre-emergency, they can base prices off of normal sale prices	Up to \$10,000 civil penalty per violation; punishable as misdemeanor

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California	"CA Penal Code § 396 Emergency Declaration Order"	Consumer food items or goods, goods or services used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight, and storage services, or gasoline or other motor fuels	Declaration of Emergency; 30 days, with indefinite extension provided for by Executive Order of March 4, 2020	March 4, 2020 (Emergency Declared)	Not "more than 10 percent greater than the price charged by that person for those goods or services immediately prior to the proclamation or declaration of emergency"	Allowable if it "was directly attributable to additional costs imposed on it by the supplier of the goods, or directly attributable to additional costs for labor or materials used to provide the services, during the state of emergency or local emergency, and the price is no more than 10 percent greater than the total of the cost to the seller plus the markup customarily applied by the seller for that good or service in the usual course of business immediately prior to the onset of the state of emergency or local emergency."	Up to \$2,500 civil penalty per violation; punishable as misdemeanor with \$10,000 fine and up to 1 year in jail
Colorado	N/A (typical Unfair and Deceptive Trade Practices/Consumer Protection laws apply)						
Connecticut	CT § 42-230, 42-232	Any item sold at retail; any product or service deemed to be in short supply or in danger of short supply; energy sources	Declaration of Emergency; duration of the declared emergency	March 10, 2020 (Emergency Declared)	"A price which exceeds the price at which such product or service was sold or offered for sale by such person in the usual course of business immediately prior to the declaration of the emergency."	"Retail items: ""Nothing in this section shall prohibit the fluctuation in the price of items sold at retail which occurs during the normal course of business."" Short supply/fuel sources: ""Nothing herein shall prohibit an increase in the price of a product or service which is attributable to additional costs incurred by such person in connection with the acquisition, production, distribution or sale of such product or service.""	Up to \$1,000 penalty per violation and up to 1 year in jail
Delaware	Emergency Declaration	All goods or services	Declaration of Emergency; duration of the declared emergency	March 12, 2020 (Emergency Declared)	10% increase of price "from the cost customarily applied in the usual course of business prior to this state of emergency"	No	Up to \$10,000 civil penalty per violation

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District of Columbia	D.C. Code § 28-4101, et seq.	All goods or services	Declaration of Emergency; duration of the declared emergency	March 11, 2020 (Emergency Declared)	For goods: Wholesale cost plus the same percentage retail markup as was applied during the 90-day period immediately preceding the emergency; For services: 10% increase of price for services over what was charged during the 90-day period immediately preceding the emergency	No	Up to \$1,000 civil penalty per violation
Florida	Florida Statutes § 501.160	Any goods or services	Declaration of emergency; 60 days, subject to indefinite renewal	March 1, 2020 (Public Health Emergency Declared); March 9, 2020 (Emergency Declared)	It is prima facie evidence of "unconscionable" price if it "grossly exceeds" the average price during the 30 days immediately prior to the emergency, unless the increase is attributable to additional costs incurred	Does not apply to sales by growers, producers or processors of raw or processed food products, except for retail sales to the ultimate consumer	Up to \$1,000 civil penalty per violation, not to exceed \$25,000 per 24 hour period
Georgia	Georgia Statutes § 10-1-393.4	Any goods or services identified by the Governor in the declaration of the state of emergency necessary to preserve, protect, or sustain the life, health, or safety of persons or their property	Declaration of Emergency; duration of the declared emergency	March 14, 2020 (Emergency Declared)	"A price higher than the price at which such goods were sold or offered for sale immediately prior to the declaration of a state of emergency; provided, however, that such price may be increased only in an amount which accurately reflects an increase in cost of the goods or services to the person selling the goods or services or an increase in the cost of transporting the goods or services into the area."	"Retailer may increase the price of goods or services during a state of emergency if the price charged for those goods or services is no greater than the cost to the retailer of those goods or services, plus the retailer's average markup percentage applied during the ten days immediately prior to the declaration of a state of emergency."	Up to \$10,000 civil penalty per violation
Hawaii	Hawaii Revised Statutes § 127A-30	Any retail or wholesale commodity, including food, water, ice, chemicals, petroleum products, construction materials	Declaration of Emergency; 96 hours unless extended, with current extension through May 31	March 4, 2020 (Emergency Declared)	Any increase in price	"Any additional operating expenses incurred by the seller or landlord because of the emergency or disaster or the severe weather, and which can be documented, may be passed on to the consumer"	Up to \$10,000 civil penalty per violation
Idaho	Idaho Statutes § 48-603	Fuel or food, pharmaceuticals, or water for human consumption	Declaration of Emergency; duration of the declared emergency	March 13, 2020 (Emergency Declared)	"Exorbitant or excessive price" (based on a comparison of the alleged violator's prices immediately before and after the declaration)	"Additional costs of doing business incurred by the alleged violator because of the disaster or emergency" may also be considered in determining what is exorbitant or excessive	Up to \$5,000 civil penalty per violation, recovery of actual damages suffered by the consumer(s), and/or an order for specific performance

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Illinois	815 ILCS 505/2; Administrative Code: 465.10, et seq.	Any petroleum product	Declaration of Emergency; duration of the declared emergency	April 1, 2020 (Emergency Declared)	"An amount that represents an unconscionably high price" (defined as a "gross disparity" between the prices immediately before and after the emergency)	Exception if "the disparity is [] substantially attributable to increased prices charged by the petroleum-related business suppliers or increased costs due to an abnormal market disruption."	Up to \$50,000 civil penalty per violation
Indiana	Indiana Code § 4-6-9-1-1, et seq.	Fuel	Declaration of Emergency; duration of the declared emergency, plus the preceding 24 hours	March 6, 2020 (Emergency Declared)	"Unconscionable" price, defined as a price that "grossly exceeds the average price" of the seven days prior to the declared emergency not attributable to increased costs to the retailer	No	Up to \$1,000 civil penalty per transaction
Iowa	Iowa Statutes § 714.16; Iowa Administrative Code (IAC): 61-31.1 (714)	"Merchandise needed by victims of disaster", including but not limited to "water, food, medicines, sanitation supplies, utilities, building materials, and materials, goods, or services for cleanup or repair."	Declaration of emergency	March 9, 2020 (Emergency Declared)	"An 'excessive price' is one that is not justified by the seller's actual costs of acquiring, producing, selling, transporting, and delivering the actual product sold, plus a reasonable profit."	Prices are presumed excessive "from a substantial increase in the price of any merchandise over the price at which the merchandise was sold or offered for sale in the usual course of business immediately prior to the onset of the emergency or from a substantial increase in the markup from cost if wholesale prices or costs have increased."	Up to \$40,000 civil penalty per violation (an additional \$5,000 if victims were elderly)
Kansas	Kansas Statutes § 50-6,106	"Any necessary property or service" for which consumer demand does or is likely to increase, including consumer food items, emergency supplies, communication supplies and services, medical supplies and services, home heating fuel, building materials and services, freight, storage services, housing, lodging, transportation and motor fuels	Declaration of Emergency; duration of the declared emergency	March 12, 2020 (Emergency Declared)	Unconscionability; "an increase of more than 25% shall be prima facie evidence of gross excess"	"[P]roof the supplier incurred . . . additional costs shall be prima facie evidence that the price increase was justified when such additional costs were actually incurred by the supplier during the period in which the substantially increased price was being charged."	Up to \$10,000 civil penalty per violation (an additional \$10,000 if victims were elderly)
Kentucky	Kentucky Statutes § 367.372, et seq.	Identified products/ services, which include: consumer food items; goods or services used for emergency cleanup; emergency supplies; medical supplies; home heating oil; building materials; housing; transportation; fuels	Declaration of Emergency; 30 days, subject to supplemental renewal	March 6, 2020 (Emergency Declared)	"A price which is grossly in excess of the price prior to the declaration and unrelated to any increased cost to the seller," which does not include a price within 10% or less over the price prior to the declaration or the costs plus normal markup of the seller	"A person who increases a price does not violate this subsection if the price increase is attributable to an additional cost imposed by a supplier of a good or other costs of providing the good or service, including an additional cost for labor or materials used to provide a service."	Up to \$5,000 civil penalty for the first violation and up to \$10,000 for each additional violation.

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Louisiana	Louisiana Revised Statutes 29, § 732	Any goods and services	Declaration of Emergency; 30 days, subject to supplemental renewal	March 11, 2020 (Emergency Declared)	"May not exceed the prices ordinarily charged for comparable goods and services in the same market area at or immediately before the time of the state of emergency"	"Unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges and attendant business risk incurred in procuring or selling the goods or services during the state of emergency."	Civil and criminal penalties
Maine	Maine Revised Statutes Title 10, § 1105; § 207	"Necessities" designated by executive order as paper products, cleaning supplies, hand sanitizer, personal hygiene products, medicine and medical supplies, food and water	Declaration of Emergency; 60 days or duration of the declared emergency	March 17, 2020 (Declaration of Abnormal Market Disruption)	Unconscionability; rebuttable presumption of unconscionability if price is 15% more than sum of price before emergency plus increased costs attributable to emergency.	"Necessities" does not include goods subject to continuous price regulation; goods for which regulation is preempted by federal law; or goods provided by insurers or non-profit hospitals.	Up to \$10,000 civil penalty per violation; criminal penalties of up to \$1,000 and/or up to 3 years in prison
Maryland	Chapters 13 and 14, Laws of Maryland 2020 and Executive Order 20-03-23-03; Maryland Consumer Protection Act	Food, beverages, fuel, water, ice, medicine, hygiene and personal care products, medical supplies or equipment, cleaning products, pet food and veterinary care, motor vehicle parts and repairs, building supplies and equipment, home improvement and maintenance, storage space, delivery (including shipping and handling), computers and related equipment and software, energy sources, batteries, internet and telecom, video streaming, website hosting, child care.	Issuance of Executive Order designating covered goods and services; duration of declared emergency	March 23, 2020 (EO Effective Date)	10% profit margin for retailers	None on the face of the law, but the Attorney General has indicated that if a retailer proves their price increases are due to increased costs they may not be liable.	Up to \$10,000 civil penalty per violation, \$25,000 per repeat violation; misdemeanor with \$1,000 penalty per violation and up to 1 year in prison
Massachusetts	Code of Massachusetts Regulations (CMR): 940 CMR 3.18; amended by emergency.	"Any petroleum product; amended by March 20 emergency regulation issued by the Attorney General to also include ""goods or services necessary for the health, safety or welfare of the public during a declared statewide or national emergency"""	Declaration of Emergency; duration of the declared emergency	March 10, 2020 (Emergency Declared)	Unconscionability; defined as "gross disparity" from price prior to emergency or price readily obtainable in the market.	Unconscionable only if "the disparity is not substantially attributable to increased prices charged by the petroleum-related business suppliers or increased costs due to an abnormal market disruption."	Up to \$5,000 civil penalty per violation.

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Michigan	Michigan Compiled Laws § 445.903; also Executive Order 2020-08	All goods or services	Statute is generally applicable, no trigger necessary; amplified by Executive Order	March 10, 2020 (Emergency Declared)	"[A] price that is grossly in excess of the price at which similar property or services are sold," which per Executive Order currently means "a person must not offer for sale or sell any product in this state at a price that is more than 20% higher than what the person offered or charged for that product as of March 9, 2020."	Ability to "demonstrate[]" that the price increase is attributable to an increase in the cost of bringing the product to market."	Civil penalty of up to \$25,000 per violation.
Minnesota	Emergency Declaration	Food, water, fuel, gasoline, housing, shelter, transportation, healthcare goods and services, pharmaceuticals, medical supplies, and personal hygiene, sanitation and cleaning goods	Declaration of Emergency; duration of the declared emergency	March 13, 2020 (Emergency Declared)	20% greater price than offered during the 30 days immediately prior to the declared emergency, although prices below that threshold could still be found "unconscionably excessive"	Pricing disparity is "substantially attributable to significant additional costs outside the control of the" seller	Up to \$10,000 civil penalty per transaction
Mississippi	Mississippi Code §75-24-25	All goods or services	Declaration of Emergency; duration of the declared emergency	March 14, 2020 (Emergency Declared)	Price "shall not exceed the prices ordinarily charged for comparable goods or services in the same market area at or immediately before the declaration of a state of emergency or local emergency."	Price may include "any expenses, the cost of the goods and services which are necessarily incurred in procuring such goods and services during a state of emergency or local emergency." Also, "[T]he prices ordinarily charged for comparable goods or services in the same market area do not include temporarily discounted goods or services."	Up to \$10,000 civil penalty per violation; chargeable as misdemeanor (up to \$1,000 and 6 months in jail) or felony (1 to 5 years in prison and/or fine of up to \$5,000)
Missouri	Missouri Revised Statutes § 407.020; Missouri Code of State Regulations (CSR): 15 CSR 60-8.030	"Necessity," which includes food, water, medical treatment, sanitation, construction, repair and transportation	Declaration of Emergency; duration of the declared emergency	March 13, 2020 (Emergency Declared)	"Excessive" price or price that is "substantially above the previous market price"	Price may be justified by the actual cost of acquiring, producing, selling, transporting and delivering the product, plus the seller's usual and customer profit margin prior to the emergency	Up to \$1,000 civil penalty per violation; may be charged as a Class D felony (1-7 years in prison and up to \$10,000 fine)
Montana	N/A (typical Unfair and Deceptive Trade Practices/Consumer Protection laws apply)						
Nebraska	N/A (typical Unfair and Deceptive Trade Practices/Consumer Protection laws apply)						
Nevada	N/A (typical Unfair and Deceptive Trade Practices/Consumer Protection laws apply)						
New Hampshire	N/A (typical Unfair and Deceptive Trade Practices/Consumer Protection laws apply)						

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New Jersey	New Jersey's Consumer Fraud Act, New Jersey Statute § 56:8-107, et seq.	Any "merchandise which is consumed or used as a direct result of an emergency or which is consumed or used to preserve, protect, or sustain the life, health, safety, or comfort of persons or their property"	Declaration of Emergency; duration of the declared emergency	March 9, 2020 (Emergency Declared)	More than 10% greater than the price of the good or service immediately before the state of emergency	Where the higher price is attributable to additional costs incurred by the seller during the emergency	Up to \$10,000 civil penalty for the first offense, and up to \$20,000 for each subsequent offense
New Mexico	N/A (typical Unfair and Deceptive Trade Practices/Consumer Protection laws apply)						
New York	New York General Business Law §396-r (general); § 396-rr (price gouging milk)	Any consumer goods or services "vital and necessary for the health, safety and welfare of consumers: including those used "primarily for personal, family, or household purchases"	Declaration of Emergency; duration of the declared emergency	March 7, 2020 (Emergency Declared)	"Unconscionably excessive," as measured by whether the excess is "extreme," and whether there is unfair leverage or unconscionable means of pricing.	Rebuttable by evidence costs not within seller's controls were imposed for the goods or services	Up to \$25,000 civil penalty per violation
North Carolina	N.C. Stat. §75-38	Any goods or services used as a direct result of an emergency or used to "preserve, protect, or sustain life, health, or economic well-being of persons or their property." Applies to all parties within the chain of distribution.	Declaration of a state of emergency or finding of abnormal market disruption	March 10, 2020 (Emergency Declared)	"Unreasonably excessive," measured in part by whether the price charged "exceeds the seller's average price in the preceding 60 days before the triggering event."	Whether the price charged is attributable to additional costs imposed on the seller during the triggering event; the price charged is attributable to fluctuations in the applicable commodity markets, market trends, or reasonable expenses and charges for the attendant business risk of procuring/ selling the good/service	Up to \$5,000 civil penalty per violation
North Dakota	N/A (typical Unfair and Deceptive Trade Practices/Consumer Protection laws apply)						
Ohio	N/A (typical Unfair and Deceptive Trade Practices/Consumer Protection laws apply)						
Oklahoma	15 Oklahoma Statutes 777.1, et seq.	"Any goods, services, dwelling units, or storage space"	Declaration of Emergency; duration of emergency plus 30 days for goods and services, plus 180 days for dwelling units and goods needed for repairs	March 15, 2020 (Emergency Declared)	"A rate or price which is more than ten percent (10%) above the rate or price charged by the person for the same or similar goods, services, dwelling units, or storage spaces immediately prior to the declaration of emergency."	Increases attributable "to price increases in applicable regional, national or international petroleum commodity markets" or "only to factors unrelated to the emergency and does not include any increase in profit to the seller or owner."	Up to \$10,000 civil penalty per violations; chargeable as a misdemeanor (up to \$1,000 fine and/or 1 year in jail) or felony (up to \$5,000 fine and/or up to 10 year in prison)

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Oregon	Oregon Revised Statutes § 401.960, et seq.	"Essential consumer goods or services", which is defined as those "acquired primarily for personal, family or household purposes, including but not limited to residential construction materials or labor, shelter for payment such as a hotel room, food, water and petroleum products such as gasoline or diesel fuel" or "are necessary for the health, safety or welfare of consumers."	Declaration of Emergency; duration of the declared emergency	March 8, 2020 (Emergency Declared)	Unconscionability; prices exceeding those prior to emergency or those readily available in market by 15% are prima facie proof of unconscionability.	15% increase is not prima facie proof if "[a] ttributable to additional costs imposed by the merchant's or wholesaler's suppliers or necessarily incurred in procuring the essential consumer goods or services immediately prior to or during the declaration of an abnormal disruption of the market; or the result of increased internal costs or expenses related to the declaration of an abnormal disruption of the market or the result of increased costs unrelated to the declaration of an abnormal disruption of the market."	Private civil actions for damages
Pennsylvania	Pennsylvania Statutes 73 § 232.1	Any consumer goods and services (those primarily for household/personal use)	Declaration of Emergency; duration of the declared emergency plus 30 days	March 6, 2020 (Emergency Declared)	Unconscionability; prima facie proof if "in excess of 20% of the average price at which the same or similar consumer goods or services were obtainable in the affected area during the last seven days immediately prior to the declared state of emergency."	Does not apply "if the increase in price is due to a disparity that is substantially attributable to additional costs that arose within the chain of distribution in connection with the sale of consumer goods or services, including replacement costs, credit card costs, taxes and transportation costs" or "to the sale of goods or services sold by a person pursuant to a tariff or rate approved by a Federal or Commonwealth agency with power and authority over sales of such goods or services."	Up to \$10,000 civil penalty per violation
Puerto Rico	N/A (typical Unfair and Deceptive Trade Practices/Consumer Protection laws apply)						
Rhode Island	Rhode Island General Laws § 6-13-21	"Essential commodities", which includes "any goods, services, materials, merchandise, supplies, equipment, resources, or other article of commerce, and includes, without limitation, home heating fuels, motor fuels, food, water, ice, chemicals, petroleum products, and lumber necessary for consumption or use as a direct result of the market emergency"	Declaration of Emergency; duration of the declared emergency	March 9, 2020 (Emergency Declared)	Unconscionability; defined as "a gross disparity between the average prices at which the same or similar commodity was readily available and sold or offered for sale within the local trade area in the usual course of business during the thirty (30) days immediately before the declaration of the market emergency."	Not unconscionable if increase is "substantially attributable to increased cost to retailers, imposed by their suppliers, including replacement costs imposed by the vendors' source." Also, "the average price calculation during said thirty-day (30) period shall not include discounted prices set and offered as a result of bona fide manufacturer's or supplier's limited discounts or rebates."	Up to \$1,000 civil penalty per violation (and up to \$25,000 in total penalties for violations within any 24-hour period)

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South Carolina	S.C. Code Ann. § 39-5-145	Commodities (goods, services, materials, merchandise, supplies, equipment, resources, or other articles of commerce, and includes food, water, ice, chemicals, petroleum products, and lumber essential for consumption or use as a direct result of a declared state of emergency); rental and dwelling unit rates; hotel rates	Declaration of Emergency; duration of the declared emergency	March 13, 2020(Emergency Declared)	"Unconscionable price" means an amount charged which "represents a gross disparity" against the average price paid in the usual course of business during the 30 days immediately before a declaration of a state of emergency was declared	Price increases approved by "an appropriate government agency" or a "price increase that reflects the usual and customary seasonal fluctuation in price of the subject" or "sales by growers, producers or processors of raw or processed food products, except for retail sales of those products to the ultimate consumer within the area of the declared state of emergency or disaster"	Misdemeanor punishable by a fine up to \$1,000 and/or 30-day imprisonment
South Dakota	N/A (typical Unfair and Deceptive Trade Practices/Consumer Protection laws apply)						
Tennessee	Tenn. Code § 47-18-5101 et seq.	Consumer food items; construction services; emergency supplies; medical supplies; building materials; gasoline; transportation, freight, and storage services; housing	Declaration of Emergency; duration of the declared emergency	March 12, 2020 (Emergency Declared)	Price "grossly in excess" of the price generally charged for the same or similar goods or services in the usual course of business immediately prior to the events giving rise to the state of emergency.	An otherwise grossly excessive price increase is not unlawful if the person charging the higher price establishes that the increase was directly attributable to additional costs imposed on it by the supplier of goods or services, or was directly attributable to additional costs for labor or materials used to provide the goods and services	Up to \$1,000 civil penalty per violation
Texas	Tex. Bus. & Com. Code § 17.46(b)	Fuel, food, medicine or another "necessity"	Declaration of Emergency; duration of the declared emergency plus 30 days	March 13, 2020 (Emergency Declared)	"Exorbitant or excessive price"	Per Attorney General guidance high prices alone do not mean that price gouging has taken place, as businesses are generally allowed to determine the prices for their products	Up to \$20,000 civil penalty per violation

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Utah	Utah Code § 13-41-101, et seq.	Any retail goods and services	Declaration of Emergency; duration of the declared emergency	March 6, 2020 (Emergency Declared)	"Excessive price" means a price for a good or service that exceeds by more than 10% the average price charged by that person for that good or service in the 30-day period immediately preceding the day on which the state of emergency is declared.	Excessive prices may be charged if cost of obtaining the good or providing the service exceeds the average cost to the person of obtaining the good or providing the service in the 30-day period immediately preceding the day on which the state of emergency is declared and the price charged does not exceed the sum of (i) 10% above the total cost to that person of obtaining the good or providing the service and (ii) the person's customary mark-up. Additional exception for persons who have not sold goods or services during the 30-day period immediately preceding the day on which the state of emergency is declared, a price is not "excessive" if it does not exceed 30% of the person's total cost to obtain the good or service	Up to \$5,000 civil penalty for the first violation and up to \$10,000 for each additional violation
Vermont	Vt. Stat. Ann. tit. 9, § 2461d	Fuel	Declaration of Emergency; duration of the declared emergency plus the 7 days that preceded it	March 13, 2020 (Emergency Declared)	"Unconscionably high price," defined as a gross disparity between the price charged and the price of the same product immediately prior to the emergency declaration or the price at which the same or similar products can readily be obtained in the same area, where the disparity is not attributable to increased cost.	No	Up to \$10,000 civil penalty per violation
Virginia	Va. Code Ann. § 59.1-525, et seq.	"Necessary goods and services" including water, ice, food, generators, batteries, home repair materials and services, and tree removal services	Declaration of Emergency; duration of the declared emergency	March 12, 2020 (Emergency Declared)	Prices are "unconscionable" if the post-disaster price charged by a supplier grossly exceeds the price charged for the same or similar goods during the 10 days immediately prior to the disaster	Considerations of excessive pricing include whether price increases are attributable solely to additional costs incurred by the supplier	Up to \$2,500 civil penalty per violation; Governor is authorized to issue for a period up to 30 days an emergency order directing reduction of price to the prevailing price in the local market
Washington	N/A (legislation pending (S.B. 6699); typical Unfair and Deceptive Trade Practices/Consumer Protection laws apply)						

STATE	LAW/REG	COVERAGE	TRIGGER & DURATION	TRIGGER DATE	PRICE LIMITATIONS	EXCEPTIONS	PENALTIES
West Virginia	West Virginia Code § 46A-6J-1, et seq.	Consumer food items; essential consumer items, goods used for emergency cleanup; emergency supplies; medical supplies; home heating oil; building materials; housing; transportation; freight and storage services; gasoline or other motor fuels	Declaration of State of Preparedness or Emergency; 30 days or duration of the declared emergency, whichever is longer	March 4, 2020 (State of Preparedness Declared); March 16, 2020 (Emergency Declared)	10% above the price charged on the tenth day prior to the declaration	If the price increase is directly attributable to additional supplier costs or additional labor and materials costs, price can be no more than 10% above total cost to the seller plus the customary markup as of the tenth day prior to the declaration. There is also a separate exception relating to gasoline or other motor fuels. If a discounted price was offered prior to the emergency, customary prices can be used as the measure.	Misdemeanor subject to up to \$1,000 fine per offense, plus up to 1 year in prison
Wisconsin	Wis. Stat. Ann. §§ 100.305, 106.01	Any consumer goods or services (those that are used primarily for personal, family, or household purpose)	Declaration of Emergency; duration of the declared emergency	March 12, 2020 (Emergency Declared)	"Unreasonably excessive prices" during a "period of abnormal economic disruption," including no price more than 15% above the highest price charged during the 60-day period preceding the emergency	Does not apply if the selling price does not exceed cost plus normal markup	Up to \$10,000 civil penalty per day
Wyoming	N/A (typical Unfair and Deceptive Trade Practices/Consumer Protection laws apply)						

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