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Price Gouging Laws Expected to Remain in Effect Through the End of the Year

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In response to the public health crisis caused by COVID-19, states of emergencies were declared across the nation in order to implement emergency response plans and halt the spread of the virus. Generally, state governors have the power to declare states of emergency, by issuing executive orders which outline the duration of the declaration and the conditions that brought about the order.

Since March 2020, all fifty states have declared states of emergencies. As a result of the declarations, price gouging laws have been triggered nationwide. As previously discussed , although the emergency declarations began at roughly the same time, states are likely to allow them to expire at very different times.

To date, no state appears to have let their emergency declarations expire, or even lapse (though the manner in which some of the renewals were implemented may leave open the possibility of a different interpretation). Practically speaking, that means that for the purposes of calculating baseline prices, the pricing considerations that were implicated when these declarations were first implemented in early March, are very likely the same considerations that will be used today.

While many states have repeatedly extended their declarations as the pandemic continues, more than a dozen states, issued a state of emergency *for an indefinite period of time*.

Two states, Missouri and South Dakota, have provisionally set December 30, 2020 as their end dates. South Dakota set that date in late May, and Missouri made a similar decision in early June.

Shorter term, some states of emergencies are currently expected to expire in October (District of Columbia) and early September (Alabama, Connecticut, Florida, Kansas, New York, Oregon, and Pennsylvania), and many other states are due to expire at various points in August.

The continued pattern of renewals over the past several months, however, gives reason to doubt whether the current expiration dates will be maintained. We have seen that, in states that set shorter time frames for the effectiveness of their declarations, the relevant states of emergencies have been repeatedly renewed and extended. In Oklahoma, for example, the emergency declaration has been renewed more than in any other state—now nearly twenty times. While their current end date is August 9, 2020, given the pattern of renewals in Oklahoma, it seems unlikely that deadline will hold.

As the pandemic continues to pose a threat to communities in various states, governors likely will continue to renew states of emergencies with no clear end in sight. Businesses should remain aware of the span of these states of emergency, as violating price gouging laws can bring about serious penalties.

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