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# Price Gouging Weekly Round Up

**August 24, 2020**

## Price gouging enforcement and litigation is front and center for company counsel and business managers nationwide. Our weekly round up highlights some of the most relevant news and information to our clients and friends.

### Department of Justice Settles Price Gouging Allegations with Two New Jersey Companies

On August 14, 2020, the Department of Justice announced that two New Jersey companies had entered into agreements to resolve allegations that the companies violated the Defense Production Act of 1950 for price gouging personal protective equipment. The agreements arise out of the April 2020 seizure of over 11 million items of PPE. The companies have agreed to disgorge $400,000 in profits relating to transactions with two customers who purchased PPE at excessive prices. According to U.S. Attorney Craig Carpenito, "[t]he defendants in this case sought to profit illegally from a pandemic just as it was starting to sweep across the country. Today's agreements will ensure that needed personal protective equipment gets into the hands of the people who need it, and at a fair price." FBI Newark Acting Special Agent in Charge Joe Denahan also commented, stating that "[p]rofiteers who choose to shamelessly defraud the America[n] public should know the FBI will utilize every means under the law to bring them to justice." For more information on the Defense Production Act of 1950, read our blog post, Price Controls under the Defense Production Act.

### Virginia Attorney General Seeks to Expand Price Gouging Law

Attorney General Mark Herring's Consumer Protection Section has received over 500 consumer complaints related to COVID-19 price gouging. In response, his office has sent over 150 letters to businesses demanding that they cease any illegal conduct. According to Attorney General Herring's office, many companies investigated have claimed that their increased prices were the result of price increases further up the supply chain. As a result, Attorney General Herring has requested "legislation that will amend the Virginia Post-Disaster Anti-Price Gouging Act . . . to also apply to manufacturers and distributors that charge unconscionable prices for necessary goods or services during a state of emergency declared by the Governor or President." Virginia's price gouging law, which doesn't explicitly limit its reach to retailers, states that "it shall be unlawful for any supplier to sell, lease, or license, or to offer to sell, lease or license, any necessary goods and services at an unconscionable price within the area for which the state of emergency is declared." Va. Code § 59.1-527. Read our *Bloomberg Law* article for more information on Price Gouging Laws and COVID-19: What Supply Chain Businesses Should Know.

## California Attorney General Issues Consumer Alert on Price Gouging Due to Wildfires and Extreme Weather

On August 18, 2020, California Governor Gavin Newsom declared a state of emergency due to the wildfires in California. The same day, California Attorney General Xavier Becerra issued a consumer alert reminding Californians that during a state of emergency, price gouging is illegal under Penal Code Section 396. Attorney General Becerra stated that "[a]s families throughout the state face devastating fires and extremely dangerous weather, they shouldn't have to worry about whether they're being illegally cheated out of fair prices for essential goods and services." Section 396 prohibits charging a price that exceeds greater than 10% of the price of an item prior to the state of emergency. However, the law provides an exception where the price of labor, goods, or materials has increased. A violation of the price gouging statute can result in civil penalties of up to $2,500 per violation, as well as criminal prosecution resulting in up to a one-year imprisonment and a fine of up to $10,000. For more information on California's price gouging law, read our post, California's Crackdown on the Price Gouging Gold Rush.

## Pennsylvania Attorney General Sues Online Seller Over Price Gouging

Pennsylvania Attorney General Josh Shapiro announced on August 20, 2020, that his office sued an online seller for price gouging. The Philadelphia based company—M&B Multi Services Inc.—allegedly sold 8-ounce bottles of hand sanitizer for prices ranging from $65 to $75. Attorney General Shapiro stated that, "M&B charged outrageous markups for hand sanitizer at the height of public anxiety, was asked to provide refunds, and refused." The Attorney General's office seeks civil penalties of $10,000 per violation, for a total of $825,000, as well as an injunction prohibiting M&B from violating Pennsylvania's Price Gouging Act and Unfair Trade Practices and Consumer Protection Law moving forward.

## Minnesota Attorney General Secures Agreement to Stop Illegal Price Gouging of Face Masks

On August 14, 2020, Minnesota Attorney General Keith Ellison announced that his office settled with a Minnesota man accused of selling face masks online at inflated prices. The Minnesota seller allegedly sold face masks online for $24.17 per mask, a price 1,744% greater than retail price for the same mask model. According to Attorney General Ellison, "[w]e're helping Minnesotans afford their lives during this crisis by cracking down on price gouging on essential goods and services. We're also helping people stay safe by making sure that protective gear is available everywhere at fair prices," Attorney General Ellison said. "People need to know that the Governor's Executive Order banning price gouging applies to individuals as well as retailers," Attorney General Ellison further stated. The seller has agreed to pay $6,806.82 to consumers harmed by the inflated prices.

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