

Price Gouging Legislation on the Horizon in States Without Laws

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While the majority of states have had price gouging laws on the books since before the pandemic, widespread pandemic price gouging has led states without laws to reconsider. Some states, like Colorado, passed price gouging legislation mid-pandemic, but other states, including New Hampshire and Washington, are now playing catch up.

On March 23, 2021, New Hampshire State Senators introduced [Bill 138](#), which aims to combat price gouging in the state. With bipartisan support, the legislation would prohibit price gouging of “necessities,” including “food for human or animal consumption, potable water, pharmaceutical products including prescription medications, wearing apparel, shoes, building materials, gas and electricity for light, heat, and power, ice, fuel of all kinds, and fertilizer and fertilizer ingredients, together with tools, utensils, implements, machinery, and equipment required for the actual production or manufacture of the same.” The bill is similar to Maine’s price gouging law, which is activated when the governor declares an “abnormal market disruption.”

Other states, like Washington, have legislation under consideration that is further along. In early March, Washington’s State Senate passed a bill prohibiting price gouging during a state of emergency. Advocated for by Attorney General Bob Ferguson, the bill would fine sellers that “engage in predatory price gouging” up to \$25,000 per violation. The bill was drafted in response to the more than 1,300 price gouging complaints received since March 2020 regarding “critical necessities” such as health care services, medical supplies, rental housing, motel rooms, gasoline, emergency supplies, and covers future emergencies like wildfires, landslides, and earthquakes. Attorney General Ferguson [stated](#) that “price gouging impairs Washingtonians’ access to necessary goods and services during an emergency. I appreciate the state senators who stepped up to block predatory price gouging and unconscionable price increases on emergency items. That said, it’s disappointing that so many state senators wanted to allow businesses to dial up their profits on emergency goods and services on the backs of Washingtonians impacted by forest fires, pandemics and landslides.” The bill remains under consideration in the house.

In other states, while attorneys general have stated that price gouging legislation is a priority, no legislation has been introduced yet. For example, Delaware Attorney General Kathy Jennings [announced](#) her list of legislative priorities for 2021, with outlawing unfair business practices, including price gouging, coming in at #8. Attorney General Jennings stated that “you may think it’s already illegal to engage in unfair business practices; Well, in Delaware, it’s not. We’re only one of only six states that has not explicitly outlawed unfair business practices like coercive sales tactics, or charging for services that a consumer never requested, or price gouging. So, it’s time we do it.” While no legislation has been introduced, price gouging in Delaware is currently prohibited by the state’s [State of Emergency Declaration](#).

As state attorneys general continue to make price gouging enforcement a priority, it is likely that states without price gouging laws see additional legislative proposals introduced in the coming months.

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