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Pricing Considerations in the Aftermath of the California Wildfires

Minding Your Business on **January 29, 2025**

The devastating January 2025 wildfires in southern California prompted Governor Newsom to declare a state of emergency on January 7, 2025 for Los Angeles and Ventura counties. This triggered California laws around price gouging and pricing restrictions in the wake of the emergency. While other, overlapping states of emergency will impact how price restrictions are ultimately calculated and considered – including local emergencies, and a statewide emergency relating to the ongoing bird flu outbreak – that the unprecedented scale of the wildfires will undoubtedly lead to increased scrutiny of pricing practices during the immediate aftermath, recovery and rebuilding.

The California Penal Code prohibits selling, or offering for sale, covered products at a price more than 10% greater than the price offered for that good in the 30 days prior to the declaration of an emergency. While application and enforcement of the pricing restrictions can be complex, the key considerations to keep in mind are these.

- **When did price restrictions go into effect?** January 7, 2025. The price restrictions immediately go into effect when the President of the United States, the Governor of California, or a city/county executive officer declare a state of emergency.
- **When do they expire?** This will be a moving target in some places. The price limitations typically stay in effect for 30 days after the emergency declaration date, subject to extensions. For repair or reconstruction services or any services used in emergency cleanup, these typically stay in effect for an initial period of 180 days. Specifically for Los Angeles County, Governor Newson has already extended certain categories of pricing restrictions by executive order to remain in effect until January 7, 2026.
- **What is the price increase ceiling?** 10% more than the price offered in the 30 days prior to the emergency declaration.
- **What if a seller starts selling a covered item only after a state of emergency is declared?** That seller is prohibited from marking up the price of that item more than 50% of its costs.

- **Does this only apply to California-based businesses?** No. The statute applies to all sellers, including manufacturers, wholesalers, individuals, distributors, and retailers, and to all kinds of sales.
- **What goods are covered?** The statute covers a wide range of products such as: rental housing, building materials, gasoline, goods or services used for emergency cleanup, consumer food items, and medical supplies.
- **What are the potential consequences?** Violations are criminally punishable by up to one year in jail and a fine up to $10,000 or civil penalties up to $2,500 ***per violation***, injunctive relief, or mandatory restitution.
- **Where do they apply?** Even when trigged by an emergency that is specifical to a particular geographic area, California Department of Justice interprets the statute to provide that the pricing restrictions are not restricted to the city or county where the emergency is declared, and that the statute is intended to prevent price gouging elsewhere in the state where this is increased consumer demand as a result of the emergency.

While the horizon for enforcement is long – the California statute provides a 4-year statute of limitations for bringing price gouging complaints – we have already seen the state eyeing enforcement opportunities. On January 22, 2025, the California Department of Justice (CDOJ) filed charges against a real estate agent. A couple who had lost their home in the wildfires applied to rent a property and were allegedly told the price would be raised 38% more than the prior advertised rate. The CDOJ has also announced that it has sent upwards of five hundred “warning letters” to hotels and landlords.

Considering the scope of pricing restrictions in place, and expected enforcement, businesses may want to consider additional diligence and documentation supporting compliance with pricing restrictions triggered by the California wildfires.

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