

State Attorneys General Warn of Price Gouging Enforcement in Wake of Recent Natural Disasters

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As states across the country grapple with the impacts of Hurricane Helene and Hurricane Milton, state attorneys general are reminding businesses and constituents of price gouging laws that ban certain price increases during emergencies.

Generally speaking, state price gouging statutes prohibit businesses from charging increased or excessive prices for certain essential goods and services during a state of emergency. But, as we've discussed [previously](#), price gouging laws vary considerably by state, particularly with respect to:

- **Duration of the restrictions:** While many states impose price gouging restrictions for 30 days following a declaration of emergency, the duration of price gouging restrictions varies significantly on a state-by-state basis. For example, some states impose restrictions only for the duration of the emergency, while others extend them to 180 days post-emergency for certain goods and services (e.g., repair and construction services). But note that (i) what constitutes an "emergency" may be open to interpretation under some state statutes; and (ii) state governors often renew or extend their emergency declarations, which may serve to reset the duration of a statute's price gouging restrictions.
- **Scope of goods and services covered:** Price gouging laws generally apply to the sale of essential goods and services. While some state statutes provide a list of what is considered "essential" (e.g., food, water, medicine, fuel, medical supplies, and/or lumber, among other things), other states leave "essential" up to interpretation. For example, Texas's price gouging statute provides a catchall provision that prohibits excessive pricing for any "necessity." Based on this statute, in 2020 the Texas Attorney General [asserted](#) that businesses had "tak[en] advantage of a disaster" and violated state law by increasing the price of ammunition during the Covid-19 pandemic. Lastly, other states (e.g., Connecticut) broadly apply their price gouging laws to any goods or services sold or offered during a state of emergency.
- **How "price gouging" is defined:** The definition of price gouging is often quite vague and varies considerably by state. A handful of states simply refer to price gouging as any "excessive" or "unconscionable" price without defining those terms. (As we've [explained](#) in the past, this can—and has—led to litigation regarding the scope and applicability of those states' price gouging laws.) Other states apply a "percentage increase" approach (e.g., offering a price that is ten percent higher than immediately before the emergency constitutes price gouging). A

minority of states, including Hawaii, define price gouging as any price increase applied during an emergency. Note that states generally apply these restrictions both at the wholesale and retail level.

In the past few weeks, many states have issued press releases warning companies of increased enforcement relating to price gouging. For example, North Carolina Attorney General Josh Stein announced in a [statement](#) that his office recently issued three civil investigative demands in response to complaints about Hurricane Helene-related price gouging. In his statement, he explained that North Carolina plans to “aggressively enforce” its price gouging law and that Stein’s office will take a “close look at the complaints” they receive. Similarly, Florida Attorney General Ashley Moody has received [more than 200 complaints](#) about price gouging in the aftermath of Hurricane Helene and in advance of Hurricane Milton, and has [extended](#) the state’s price gouging hotline. And just this week, Michigan Attorney General Dana Nessel [testified](#) in support of legislation that would enhance price gouging protections for consumers in the state.

Given the recent surge in natural disasters in the U.S., it is likely that state attorneys general will make price gouging an enforcement priority. Businesses across the supply chain should monitor state emergency declarations and analyze relevant state laws for compliance.

For further discussion on price gouging, [register](#) for the American Bar Association’s Tuesday, October 15th webinar, “When Should Price Hikes Be Illegal?” Speakers include Kelley Drye’s Paul Singer and discussion will explore regulatory and legislative efforts aimed at controlling price increases. Panelists will discuss presidential candidates’ vows to bring down prices, the legal tools available to do so, and the broader economic impact of price control laws.