Price Gouging Protection - FAQs

Reps. Titone & Weissman / Sens. Foote & Pettersen

What is the definition of price gouging?

- Several states seek to define these actions by limiting price increases to a fixed percent during a natural disaster or some other emergency. However, this can hamper a business's ability to adjust prices to meet supply chain limitations.
- This legislation seeks to address that by **preventing unfair and unconscionable price increases, allowing for case-by-case analyses**. This allows businesses to fairly adjust prices while providing increased protections to consumers as any price increase can be evaluated as a potential violation.

What is covered by the price gouging language and why?

- Any building materials, consumer food items, emergency supplies; fuel, medical supplies, other necessities, repair or reconstruction services, transportation, freight, or storage services; or services used in an emergency cleanup that are offered for sale are subject to this authority.
- A broad range of products and services must be included as we cannot predict what will be needed to effectively respond to an emergency and must ensure people can purchase necessary products and services to protect their health and safety.

My wholesaler raised their prices, can I pass my costs on to the consumer?

- Yes. In cases where the wholesaler, distributor, or other actor further up a supply chain increases prices that must get passed down, it is appropriate for a business to include those additional costs in order to cover their debts. In this instance, even if an investigation was initiated against a retail store, if the store can show their costs are reasonable under the circumstances, the investigation would shift its focus further up the supply chain in order to hold the bad actor responsible.
- A business can also report any inappropriate price increases by a supplier to the Attorney General or local district attorney in order to protect their own interests.

Who can enforce this statute?

- This is enforced by the Attorney General or a District Attorney – elected officials accountable to their constituents.
- There is no private right of action.

How does this compare to other states?

- **Colorado is one of only 14 states without any price gouging law on the books.**
- There is no model legislation for price gouging.
- Some states laws revolve around a fixed percentage increase; some create presumptions of price gouging; and others do not define it at all.
- The circumstances required vary but typically require an extreme circumstance. Covered transactions also vary greatly, from covering any transaction to only a few specific products or services.
- Ultimately, all price gouging statutes attempt to prevent unconscionable or unjustifiable price increases to stop people from profiting off a crisis.