



THE ATTORNEY GENERAL
STATE OF ARKANSAS
LESLIE RUTLEDGE

PRICE GOUGING

Act 376 of 1997 prohibits businesses and individuals from price gouging during a state of emergency. The law prohibits businesses and individuals from charging more than 10 percent above the pre-emergency price of goods or services. The scope of the law is broad and is intended to cover anything that may be needed in the event of a state of emergency. Examples of items and services covered by the law include, but are not limited to, cleaning and disinfection products, personal protective equipment, medicine and medical supplies, goods used for personal care, food, water and other items in short supply.

The price gouging law is triggered whenever a state of emergency is declared by federal, state, or local governments. The ban on price gouging remains in effect for at least 30 days and can be extended another 30 days by the local governing body if necessary to protect the lives, property, or welfare of the citizens.

While the law sets a general 10 percent cap on price increases during an emergency, businesses may lawfully charge a higher price if they can establish that the higher price is directly attributable to additional costs incurred by the retailer from its supplier or as the result of additional costs for labor or materials used to provide the goods or service. In such a limited situation, the business may charge no more than 10 percent above the total of the cost to the business, plus the markup which would customarily be applied by the business for that good or service in the normal course of business.

The law applies to both retail and wholesale prices. Manufacturers and distributors cannot engage in price gouging to hospitals, pharmacies and medical providers or to retail businesses.

A violation of Act 376 is a violation of the Deceptive Trade Practices Act. The Attorney General can seek injunctive relief, restitution to consumers, costs, attorneys' fees, and civil penalties up to \$10,000 per violation. Criminal sanctions may also apply to violators.