



New Jersey Office of the Attorney General

Division of Consumer Affairs
Office of Consumer Protection
124 Halsey Street, 7th Floor, Newark, NJ 07102



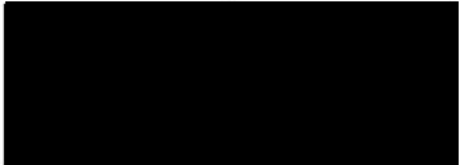
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WARNING TO CEASE AND DESIST ANY EXCESSIVE PRICING OF PRODUCTS DURING STATE OF EMERGENCY

Dear Business Owner,

The Attorney General, Division of Consumer Affairs (“Division”), has received information that your business is or may be significantly inflating prices of product(s) in the midst of the current public health crisis related to the Coronavirus (COVID-19) pandemic. On March 9, 2020, Governor Murphy issued Executive Order No. 103 (2020) declaring both a Public Health and Emergency and a State of Emergency. As a result, New Jersey’s law against price gouging during emergencies and major disasters is in effect. *See* N.J.S.A. 56:8-107 to -109.

The price gouging law prohibits merchants from taking unfair advantage of consumers by raising prices for certain products during a declared State of Emergency. Specifically, the price gouging law provides, “It shall be an unlawful practice for any person to sell or offer to sell during a state of emergency or within 30 days of the termination of a state of emergency, in the area for which the state of emergency has been declared, any merchandise which is consumed or used as a direct result of an emergency or which is consumed or used to preserve, protect, or sustain the life, health, safety or comfort of a person or their property for a price that constitutes an excessive price increase.” N.J.S.A. 56:8-109. An excessive price increase means: (1) a price that exceeds by more than 10 percent the price at which the merchandise was sold by you immediately prior to the state of emergency; or (2) a price that represents an increase of more than 10 percent in the amount of markup from cost to you, compared to the markup customarily applied in the usual course of business. N.J.S.A. 56:8-108.

In addition, the New Jersey Consumer Fraud Act, N.J.S.A 56:8-1 to -210, prohibits the “use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise . . . whether or not any person has in fact been misled, deceived or damaged thereby” N.J.S.A. 56:8-2. The Division interprets “unconscionable commercial practice” to include the gross and unreasonable inflation of the price of any product in response to concerns about a public health crisis, such as the Coronavirus (COVID-19) pandemic. Making false or misleading statements regarding the

efficacy or effectiveness of any product to protect against or prevent the spread of the Coronavirus (COVID-19) also violates the Consumer Fraud Act.

Each instance of offering for sale and/or selling merchandise at a price constituting an excessive price increase or making false or misleading statements in connection with the sale of merchandise constitutes a separate violation, and you may be subject to a penalty of \$10,000 for the first violation and \$20,000 for each subsequent violation.

The Attorney General and the Division will not tolerate price gouging, unfair business practices, or any other attempt to prey on or profit from New Jersey consumers' needs or fears relating to the COVID-19 pandemic. By this letter, you are on notice that the Division has received one or more complaints against your business for potentially violating the Consumer Fraud Act and related laws, which could subject you to penalties as set forth herein and/or other relief. That complaint is subject to further investigation and no determination has been made regarding the conduct of you or your business at this time. To the extent you are engaged in any conduct in violation of New Jersey's price gouging law or otherwise in violation of the Consumer Fraud Act, however, you are hereby directed to cease and desist such conduct. The Division further requests that you preserve any items or evidence associated with the sale of any merchandise that is consumed or used as a direct result of an emergency or which is consumed or used to preserve, protect, or sustain the life, health, safety, or comfort of a person or their property from February 17, 2020, to the present. Please maintain these records for a minimum of 6 months from the date of this letter, or until you receive further instruction from the Division; note, however that this request does not reduce or diminish any other preservation period or obligation that may apply to your business or any of its records under any applicable law.

Please be guided accordingly.

Sincerely,

A handwritten signature in black ink that reads "Paul Rodríguez". The signature is written in a cursive style with a large, stylized "P" and "R".

Paul R. Rodríguez
Acting Director
New Jersey Division of Consumer Affairs