



OFFICE OF THE DISTRICT ATTORNEY
MARIN COUNTY, CALIFORNIA

Prevention * Prosecution * Protection

Lori E. Frugoli
District Attorney

FOR IMMEDIATE RELEASE
District Attorney Lori E. Frugoli
Telephone: (415) 473-6450

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**DISTRICT ATTORNEY LORI E. FRUGOLI WARNS RETAILERS ABOUT PRICE GOUGING
DURING THE CURRENT COVID-19 STATE OF EMERGENCY**

District Attorney Lori Frugoli today issued a warning to all persons and businesses located in Marin County reminding them that price gouging on consumer food items, goods and services as well as emergency and medical supplies, is prohibited under California's anti-price gouging law, Penal Code section 396. "Our office has received reports of exorbitant prices being charged in Marin County by some retailers for certain consumer goods and staples and in at least one case, N95 masks. I advise all persons who do business in Marin County to follow not only the letter of the law but also the spirit of the law by not taking unfair economic advantage of consumers during a declared state of emergency, especially one as devastating as the current COVID-19 pandemic," said District Attorney Frugoli.

California's anti-price gouging law states in pertinent part that upon the proclamation of an emergency it is unlawful for any person, contractor, or business to sell or offer to sell, any consumer food items or goods, emergency supplies, medical supplies, building materials, housing, transportation/freight/storage services, or gasoline or other motor fuels for a price of more than 10 percent greater than the price charged by that person for those goods or services immediately prior to the proclamation or declaration of emergency.

Further, on April 3, 2020, Governor Newsom issued Executive Order N-44-20 further enhancing price gouging protections beyond what is already provided for in the Penal Code section 396. First, the Governor's Order extended the time period prohibiting price gouging (triggered by his March 4, 2020 Emergency Declaration) under Penal Code section 396 until September 4, 2020. Second, the Governor's Order made it a violation of the Order for any person or entity to sell any food items, consumer goods, medical or emergency supplies, and any materials designated as scarce or threatened materials under the Federal Defense Production Act, that the person or entity did not sell or offer for sale on February 4, 2020, at an unconscionably excessive price. Per the Order, a price is unconscionably excessive if it is more than 50% greater than either the amount the seller paid for the item or if the seller did not purchase the item, the total cost to the seller of producing and selling the item.

Violation of the Penal Code section 396 is a misdemeanor punishable by imprisonment in a county jail for a up to a year and/or a fine of up to \$10,000. Violation of Penal Code section 396 also constitutes an unfair business practice under Business and Professions Code section 17200 et seq. which requires civil penalties of up to \$2,500 per violation and may include an injunction and restitution to consumers. Violation of the Governor's Executive Order is a misdemeanor under Government Code section 8665 and is punishable by imprisonment in a county jail for up to 6 months and and/or a fine of up to \$1,000.

"This is a critical time for our community and its business partners to come together and support each other. We hope and expect all persons and businesses are aware of their obligations under California's anti-price gouging law and orders issued by the Governor, but we will not hesitate to respond appropriately to achieve compliance with the law and protection of the public," cautioned District Attorney Frugoli.

Any person who believes they have been the victim of unlawful price gouging or who has information regarding potential unlawful price gouging is asked to do any of the following: call the Marin District Attorney's Office consumer protection unit at (415) 473-6495 (English)/(415) 473-6188 (Spanish); email us with details of your complaint at consumer@marincounty.org; or make a report to your local law enforcement agency. Important information to include in any report is: a description or name of the good or service; the name of the person or business selling the good or service; the price paid or currently being charged; and any information about the price of the good or service prior to March 4, 2020.