

IS IT PRICE GOUGING?

Since March 2020, many instances of real or perceived price gouging have complicated the process of obtaining critical supplies to help prevent the spread of COVID-19. In particular, spikes in prices for personal protective equipment—especially masks/face shields, hand sanitizer, and hand wash unit rentals—have led to concerns that sellers are raising prices unfairly during the COVID-19 crisis.

Varying Definitions of Price Gouging



Generally, when a state's governor declares a state of emergency, this automatically puts the state's "price gouging" law into place. These laws vary from state to state, and a few states do not even have specific price gouging laws. Instead, they rely on the consumer protection statutes in place in those states.

Most areas, though, explicitly prohibit unreasonable profiteering during times of crisis either as a consequence of existing laws governing states of emergency or through executive orders put in place by the governor. Some states define price gouging or profiteering very specifically, such as a 10 percent or a 25 percent deviation from the regular price.

Others use language that is more open to interpretation. For example, Iowa prohibits "excessive prices" defined as "one that is not justified by the seller's actual costs of acquiring, producing, selling, transporting, and delivering the actual product sold, plus a reasonable profit."

The PSAI has created a resource to help you determine what constitutes price gouging in each state. [Find it here](#) in the [PSAI's COVID-19 Resource Center](#).



How High Can I Raise My Prices If My Costs Go Up?

It may be that you need to raise prices because your costs have gone up. At what level can someone credibly accuse you of gouging?

Because there is no "one size fits all" definition of price gouging, there is also no simple answer to this question. On the next page is a chart with some of the more common red flags for price gouging.

How Should I Report Price Gouging?

If you believe one of your suppliers is gouging you, report it to the entity shown on the above resource for the relevant states. Generally, you will need to provide:

- The time, place, and specific products or services involved in possible price gouging
- The name and address of the business you believe is price gouging
- The difference in prices before and after and/or
- Any prices competitors nearby are charging and provide the same information on those businesses
- Photos, screen shots, emails, or other documentation you may have to verify the above price difference
- Your own name and contact information

Red Flags for Price Gouging

Prices that are considerably higher than they were before the crisis but without any real cause	Prices that are considerably higher than average	Price comparison between similar products shows an anomaly
<p>Almost everyone understands that when things become scarce, prices go up. The issue with price gouging is whether the price goes up for a reason that is justified or opportunistic during a declared emergency. If you supply product X which previously cost you \$10 and now costs you \$30, in most states you are justified in raising the price 200% because your cost went up that much. But if it only costs you \$12 now and you decide to charge \$30 because the market will bear it, that's likely to be a red flag.</p>	<p>Businesses are allowed to compete on quality and other differentiators, even during an emergency. They are NOT allowed to raise the price of their products or services excessively to take advantage of the current pandemic. For example, if competitor A is charging \$100 for something, competitor B is charging \$110 for it, competitor C is charging \$108 for it, and you want to charge \$200 for it, it will be a red flag during an emergency.</p>	<p>Some state laws prohibit significant increases in prices as compared to other products. For instance, if your product X is priced at double the cost of similar product X-es, that may again raise concern that you are violating price gouging laws.</p>

These red flags do not necessarily mean that you are guilty of price gouging. However, they will likely draw the wrong kind of attention to your company and you'll need to demonstrate why your prices are in compliance with the law in whatever state(s) you are doing business.

To do this, make sure you are keeping a paper trail for every component of your pricing so you can demonstrate that what you are charging is reasonable in light of your costs. Again, refer to the state by state resource to help you determine what sort of evidence you will likely need.

[Find it here](#) in the [PSAI's COVID-19 Resource Center](#).

Please let the PSAI know about instances of price gouging that you notice. Call +1-952-854-8300 or email karleenk@psai.org.

