

# Attorney General James Announces Price Gouging Rules to Protect Consumers and Small Businesses

*Proposed Rules will Establish Clear Price Gouging Guardrails for Companies*

NEW YORK – New York Attorney General Letitia James today [proposed rules to protect consumers and small businesses](#) from corporate profiteering. The rules would strengthen enforcement of New York’s price gouging law, which was updated in 2020 to grant the Office of the Attorney General (OAG) rulemaking authority. The proposed rules will make it more straightforward to investigate and combat price gouging by setting clear guardrails against price increases during emergencies. The proposed rules are a continuation of Attorney General James’ efforts to protect consumers and are open to a 60-day public comment period.

“Soaring costs of essentials have pushed hardworking New Yorkers to the brink and forced hard decisions around kitchen tables,” said **Attorney General James**. “The rules proposed by my office will bolster our efforts to crack down on price gouging and ensure that large corporations do not take advantage of New Yorkers during difficult times. When times get tough, New Yorkers can trust that my office will always have their back.”

New York’s price gouging law bans companies throughout the supply chain from taking advantage of a market disruption to increase their profits for vital and necessary goods and services. The statute asserts that an abnormal market disruption is caused by extreme weather events, military action, energy disruptions, strikes, or national or local emergencies, or another event that leads to a declared state of emergency. In 2020, the New York State Legislature amended the law to empower OAG with rulemaking authority.

In March 2022, OAG [launched the first-ever price gouging rulemaking process](#) to gather information from consumers and industry experts on how to strengthen and clarify the state’s price gouging statute. The proposed rules announced today are informed by OAG’s decades of experience enforcing the price gouging statute and by the public comments submitted by advocates, trade groups, and economic experts. The proposed rules include actions to:

- **Clarify that a price increase over 10 percent during an abnormal market disruption may constitute price gouging.** State law asserts that when there is a “gross disparity” in prices before and after an abnormal market disruption, it may be price gouging. By stating that a 10 percent increase represents a “gross disparity,” the proposed rule makes it easier for consumers and small businesses to identify and report price gouging, deters price gouging, provides enforcers with an easily administrable standard for enforcing the price gouging statute, and is widely used by other enforcers.

- › **Prohibit corporations with large market shares from increasing profit margins during abnormal market disruptions.** The rule clarifies that dominant companies with 30 percent market share, and companies in concentrated markets, have unfair leverage and the power to drive market-wide changes. Therefore, they cannot increase their profits during abnormal market disruptions at the expense of New Yorkers.
- › **Create guardrails for companies that rely on dynamic pricing.** Dynamic pricing means prices can change depending on demand and time of day, and is favored by some companies, including ride-hailing services. Due to this pricing model, it is currently difficult to determine if a company is price gouging. This rule allows OAG to establish a benchmark by using the median price for the same good or service at the same time one week before the emergency or market disruption. This will allow for a much quicker analysis of whether illegal price gouging occurred during frequent significant weather events and emergencies that abnormally disrupt service markets that use dynamic pricing.
- › **Include protections for products or services introduced after a market disruption.** A new product or service that is created following an emergency can be considered vital and necessary, and therefore can become subject to enforcement of the price gouging statute. During the ongoing COVID-19 pandemic, OAG received many complaints about price gouging on goods and services introduced in response to the pandemic, such as COVID-19 at-home tests and medical treatments. These products became vital and necessary after the pandemic started. Future crises also may result in price gouging on new products or services.
- › **Provide clarification for what companies can claim as costs when setting prices.** A company that raises their prices more than 10 percent must show a record of their costs to justify the price increase. This rule details what does and does not count as a cost for purposes of an affirmative defense.

[All the proposed rules can be found online here.](#)

“Price gouging during an emergency is a shameful and illegal practice, and far too many New Yorkers have suffered from corporate greed during the pandemic and other natural disasters,” said **State Senator Brad Hoylman-Sigal**. “I’m proud to have passed legislation in 2020 to strengthen our price gouging statute by giving the New York Attorney General the power to directly take on the gougers and protect New York consumers through the rule-making process. I commend Attorney General James for proposing a set of rules to keep our consumers and small businesses safe from exploitation.”

“Price increases of necessary items during emergencies are unacceptable and illegal,” said **State Senator Kevin Thomas**. “The responses to certain supply chain and market disruptions during the COVID-19 pandemic by companies made it clear that stronger enforcement of New York’s price gouging statute was needed. I thank Attorney General James for tackling illegal profiteering with these new

guardrails that'll prevent companies from enriching themselves and keep more money in the pockets of consumers.”

“New York consumers have faced unprecedented issues during the past few years — from price gouging and price hikes to fraud and identity theft. As we work to protect New Yorkers from price gouging and predatory sales tactics, I encourage consumers and retailers alike to share their experiences,” said **Assemblymember Nily Rozic**. “I'm thankful for Attorney General James' partnership in this effort to protect New Yorkers from illegal price gouging.”

The rules announced today continue Attorney General James' efforts to combat price gouging and protect consumers. Throughout the [pandemic](#), during [major disruptions](#), and [ahead of declared disasters](#), Attorney General James has issued consumer warnings against price gouging on essential supplies. In December 2022, Attorney General James [cautioned against price gouging ahead of a snowstorm](#) that hit Western New York. In May 2022, Attorney General James issued warnings to more than 30 retailers across the state to [stop overcharging for baby formula](#) after consumers reported unreasonably high prices. In April 2021, she [recovered 1.2 million eggs from one of the nation's largest egg producers](#), Hillandale Farms, for price gouging eggs during the COVID-19 pandemic.

The proposed rules are open to comment for a 60-day public comment period. Comments can be submitted by emailing: [stopillegalprofiteering@ag.ny.gov](mailto:stopillegalprofiteering@ag.ny.gov). After reviewing public comments, the rules may be promulgated as is or may be revised upon further analysis.

This matter is being led by Special Advisor and Senior Counsel for Economic Justice Zephyr Teachout of the Division of Economic Justice with support from Jane M. Azia, Jack Figura, and Alec Webley of the Consumer Frauds & Protection Bureau, Elinor R. Hoffmann, Tal Elmatad, and Michael Jo of the Antitrust Bureau, and Ester Murdukhayeva of the Division of Appeals and Opinions. The Division of Economic Justice is led by Chief Deputy Attorney General Chris D'Angelo and overseen by First Deputy Attorney General Jennifer Levy.

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