

IC 4-6-9.1

Chapter 9.1. Price Gouging in Declared Emergencies

IC 4-6-9.1-1

Period for which emergency declared

Sec. 1. (a) Sections 1 through 7 of this chapter apply to the period during which an emergency is declared and the twenty-four (24) hours before the declaration by the governor under IC 10-14-3-12 or IC 10-14-3-13.

(b) The definitions in IC 10-14-3 apply to this chapter.

As added by P.L.124-2002, SEC.1. Amended by P.L.2-2003, SEC.11.

IC 4-6-9.1-2

"Price gouging" defined

Sec. 2. For purposes of this chapter, "price gouging" means charging a consumer an unconscionable amount for the sale of fuel.

Price gouging occurs if:

- (1) the amount charged grossly exceeds the average price at which fuel was readily obtainable within the retailer's trade area during the seven (7) days immediately before the declaration of emergency; and
- (2) the increase in the amount charged is not attributable to cost factors to the retailer, including replacement costs, taxes, and transportation costs incurred by the retailer.

As added by P.L.124-2002, SEC.1.

IC 4-6-9.1-3

Powers and duties of attorney general

Sec. 3. The attorney general has the following powers and duties regarding price gouging:

- (1) To investigate complaints received claiming price gouging.
- (2) To seek injunctive relief as appropriate.
- (3) To seek restitution for victims of price gouging.
- (4) To institute an action to levy and collect a civil penalty.

As added by P.L.124-2002, SEC.1.

IC 4-6-9.1-4

Use of information obtained in investigation

Sec. 4. (a) Information obtained during the attorney general's investigation under this chapter, including information from a person who responds to the investigation and designates the information as confidential, must be maintained as confidential until the investigation is completed by the attorney general and a course of action is determined. The attorney general may not make known in any manner any information obtained in the course of the investigation to persons other than those specified in subsection (c). Once the investigation is completed, if there is an agreed upon settlement or if charges are filed, the information becomes public.

(b) The attorney general shall make available to the public, upon request, aggregate information concerning complaints of price

gouging. The aggregate data may not identify particular persons or locations under investigation.

(c) For purposes of this section, references to the attorney general include other individuals designated in writing and acting on behalf of the attorney general during the investigation. A person designated shall preserve the confidentiality of information under subsection (a).

(d) A person who is served with a request for information, a subpoena to give testimony orally or in writing, or a request or order to produce books, papers, correspondence, memoranda, agreements, or other documents or records under this chapter may apply to any court for protection against abuse or hardship.

As added by P.L.124-2002, SEC.1.

IC 4-6-9.1-5

Action brought by attorney general

Sec. 5. If an investigation by the attorney general results in a finding of price gouging, the attorney general may bring an action in a circuit or superior court with jurisdiction in the county where the price gouging allegedly occurred. If the court finds that the retailer engaged in price gouging, the court may assess a civil penalty against the retailer. The civil penalty may not be more than one thousand dollars (\$1,000) per transaction.

As added by P.L.124-2002, SEC.1.

IC 4-6-9.1-6

Civil penalties

Sec. 6. Civil penalties collected under section 6 of this chapter must be deposited in the state general fund.

As added by P.L.124-2002, SEC.1.

IC 4-6-9.1-7

Preemption of local government powers in price gouging emergencies

Sec. 7. This chapter preempts the power of local governments to regulate pricing of commodities under a declaration of emergency:

- (1) under IC 10-14-3-12;
- (2) under IC 10-14-3-13; or
- (3) by a local government.

As added by P.L.124-2002, SEC.1. Amended by P.L.2-2003, SEC.12.