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## **SENATE COMMITTEE ON PUBLIC SAFETY**

**Senator Jesse Arreguín, Chair**

**2025 - 2026 Regular**

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**Bill No:** SB 368      **Hearing Date:** April 22, 2025

**Author:** Smallwood-Cuevas

**Version:** February 13, 2025

**Urgency:** No

**Fiscal:** Yes

**Consultant:** SU

**Subject:** *Price gouging*

### **HISTORY**

Source: Author

Prior Legislation: None

Support: California-Hawaii State Conference of the NAACP

Opposition: None known

### **AS PROPOSED TO BE AMENDED IN COMMITTEE**

### **PURPOSE**

*The purpose of this bill is to require the Department of Justice (DOJ) and local prosecutors to establish partnerships to enforce prohibitions on price gouging.*

*Existing law* contains legislative findings that during a state of emergency or local emergency, including, resulting from natural or manmade disasters, some merchants have taken unfair advantage of consumers by greatly increasing prices for essential consumer goods and services. While the pricing of consumer goods and services is generally best left to the marketplace under ordinary conditions, when a declared state of emergency or local emergency results in abnormal disruptions of the market, the public interest requires that excessive and unjustified increases in the prices of essential consumer goods and services be prohibited. (Pen. Code, § 396, subd. (a).)

*Existing law* prohibits, for 30 days following a proclamation or declaration of emergency, the sale, or offer to sell, any consumer food items or goods, goods or services used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight, and storage services, or gasoline or other motor fuels for a price of more than 10% greater than the price charged before the proclamation or declaration of emergency. (Pen. Code, § 396, subd. (b).)

*Existing law* prohibits, for 180 days following a proclamation or declaration of emergency, a contractor from selling or offering to sell any repair or reconstruction services or any services used in emergency cleanup for a price of more than 10% greater than the price charged before the proclamation or declaration of emergency. (Pen. Code, § 396, subd. (c).)

*Existing law* prohibits, for 30 days following a proclamation or declaration of emergency, an owner or operator of a hotel or motel from increasing the hotel or motel's regular rates more than 10% than the price charged before the proclamation or declaration of emergency. (Pen. Code, § 396, subd. (d).)

*Existing law* prohibits, for 30 days following an official proclamation or declaration of emergency, the increase of rental price advertised, offered, or charged for housing, to an existing or prospective tenant for more than 10% than the price charged before the proclamation or declaration of emergency. (Pen. Code, § 396, subd. (e).)

*Existing law* prohibits, for 30 days following an official proclamation or declaration of emergency, a landlord from evicting a tenant and renting or offering to rent to another person at a rental price greater than the evicted tenant could be charged, unless the eviction process began prior to the emergency proclamation or declaration. (Pen. Code, § 396, subd. (f).)

*Existing law* allows extension of price gouging prohibitions for additional periods beyond the initial 30 days or 180 days of a proclamation or declaration of emergency if deemed necessary to protect the lives, property, or welfare of citizens. (Pen. Code, § 396, subd. (g).)

*Existing law* punishes price gouging as a misdemeanor with imprisonment in a county jail for a period not exceeding one year, by a fine of not more than \$10,000, or by both. (Pen. Code, § 396, subd. (h).)

*Existing law* provides that violations of the price gouging restrictions constitute unlawful business practices and potentially subject violators to injunctions and other remedies, as defined. (Pen. Code, § 396, subd. (i).)

*This bill* requires DOJ to establish partnerships with local prosecutors to enforce price-gouging prohibitions.

## COMMENTS

### 1. Need for This Bill

According to the author:

In January, 2025 Los Angeles experienced the most catastrophic wildfires in our history. Wildfires throughout the county claimed at least 30 lives and destroyed over 16,000 structures. In the face of extreme loss, thousands of Angelenos have been displaced. The Governor's emergency declaration protects residents from price gouging of essential goods, and most importantly housing and shelter. During a time when thousands of Californians are searching for already scarce affordable housing, it is crucial that local district attorneys create partnerships with the Department of Justice to enforce our robust protections against price gouging.

## 2. Background

Price gouging occurs when person selling retail goods or services increases prices significantly after a natural disaster or other state of emergency. Existing law prohibits a selling or offering to sell certain goods or services for a price more than 10% greater than the price charged immediately prior to a declared state of emergency. Specifically, this prohibition applies when the president of the United States or the governor proclaims a state of emergency or when the executive officer of a county or city declares a local emergency. Currently, price gouging is prohibited for 30 or 180 days after an emergency is declared, depending on the goods or services at issue, but an extension of the price gouging protections can be declared by executive order. A violation of the prohibition is punishable as a misdemeanor by up to one year in county jail or a fine of \$10,000, or by both. Price gouging is also an unlawful business practice that can be civilly enforced by specified public prosecutors or through a private right of action.

After the recent fires in Los Angeles, both the Attorney General and the Los Angeles City Attorney have filed charges against individuals suspected of price gouging. The Attorney General's most recent press release alerting consumers about price gouging restrictions states, "In addition to sending over 700 warning letters to hotels and landlords, the California Department of Justice has several active investigations into price gouging." (See Attorney General Bonta Issues Consumer Alert Following Extension of Price Gouging Protections Until July 1, 2025, March 7, 2025, <https://oag.ca.gov/news/press-releases/attorney-general-bonta-issues-consumer-alert-following-extension-price-gouging> [as of April 9, 2025].) Similarly, the Los Angeles City Attorney recently filed both a criminal and civil action against a global rental corporation who is to have alleged in price gouging after the Los Angeles fires. (See LA City Attorney Hydee Feldstein Soto Files Civil Suit and Criminal Charges to Fight Price Gouging in Wake of LA Wildfires, February 4, 2025, <https://cityattorney.lacity.gov/updates/la-city-attorney-hydee-feldstein-soto-files-civil-suit-and-criminal-charges-fight-price> [as of April 9, 2025].) It is not clear, however, whether the DOJ and the LA City Attorney coordinated efforts in investigating these cases. The DOJ website does state that its office "[a]ssists district attorneys, local law enforcement and federal and international criminal justice agencies in the administration of justice." (See <https://oag.ca.gov/office> [as of April 10, 2025].) The website also states that the DOJ "[s]trengthens California's law enforcement community by coordinating statewide narcotics enforcement efforts, supporting criminal investigations and providing forensic science services, identification and information services and telecommunication support. (*Ibid.*)

This bill would require the DOJ to establish partnerships with local district attorneys to enforce price-gouging prohibitions. Generally, the district attorney, who is the public prosecutor, initiates and conducts all prosecutions for public offenses on behalf of the people. (Gov. Code, § 26500.) However, many city attorneys also act as criminal prosecutors. City attorneys may also prosecute misdemeanors arising under state law with the consent of the district attorney. (Gov. Code, § 41803.5, subd. (a).) In fact, as noted above, the LA City Attorney's Office, not the District Attorney's Office, recently filed price gouging charges. As proposed to be amended in committee, this bill will require DOJ to establish partnerships with local prosecutors, rather than just district attorneys, to account for both.

### **3. Argument in Support**

According to the California-Hawaii State Conference of the NAACP:

SB 368 ensures that those who take advantage of Californians in their most desperate moments are held accountable. It's not just about punishment—it's about partnership, and giving local prosecutors the resources and backup they need to enforce laws that already exist but are often underutilized.

Disasters like the Eaton fires aren't rare anymore. With climate change accelerating and extreme weather events increasing in frequency, we need to make sure our laws do more than sit on the books—we need them to work in real time for real people.

**-- END --**