
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

SB 368 (Smallwood-Cuevas) - Price gouging

Version: April 24, 2025

Urgency: No

Hearing Date: May 5, 2025

Policy Vote: PUB. S. 6 - 0

Mandate: Yes

Consultant: Liah Burnley

Bill Summary: SB 368 requires the Department of Justice and local prosecutors to establish partnerships to enforce the provisions the criminal price gouging statute.

Fiscal Impact:

- **Department of Justice (DOJ) and local prosecutors:** DOJ reports no fiscal impact; however, it is likely there are at least some potential costs (General Fund, local funds) associated with establishing partnerships with local law enforcement agencies. Additionally, this bill will lead to increased civil actions and criminal charges, which is a significant workload increase for state and local prosecutors. The California Constitution requires the state to reimburse local agencies for certain costs mandated by the state. By requiring local prosecutors to establish partnerships, this bill increases the duties of local prosecutors and creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on counties may claim reimbursement of those costs. (See Staff Comments)
- **Trial Courts:** Unknown, potential cost pressures to the state funded trial court system (Trial Court Trust Fund, General Fund) to adjudicate additional civil and criminal actions that may be filed as a result of this bill. The fiscal impact of this bill to the courts will depend on many unknown factors, including the number of cases filed and the factors unique to each case. An eight-hour court day costs approximately \$10,500 in staff in workload. If court days exceed 10, costs to the trial courts could reach hundreds of thousands of dollars. In 2023–24, over 4.8 million cases were filed statewide in the superior courts. Filings increased over the past year, driven mostly by misdemeanors and infractions, and civil limited cases. The increase in filings from the previous year is greater than 5% for civil limited and unlimited, appellate division appeals, juvenile delinquency, misdemeanors and infractions, and probate. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations. The Governor's 2025-26 budget proposes a \$40 million ongoing increase in discretionary funding from the General Fund to help pay for increased trial court operation costs beginning in 2025-26.
- **Local Incarceration and Supervision:** Unknown, potential cost pressures (local funds, General Fund) to the counties to incarcerate people for additional crimes that may be charged as a result of this bill. The average annual cost to incarcerate one

person in county jail is approximately \$77,252 per year. Actual incarceration costs to counties will depend on the number of convictions and the length of each sentence. Although county incarceration costs are generally not considered reimbursable state mandates pursuant to Proposition 30 (2012), overcrowding in county jails creates cost pressure on the General Fund because the state has historically granted new funding to counties to offset overcrowding resulting from 2011 public safety realignment.

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.

Proposed Law: This bill requires the DOJ and local prosecutors to establish partnerships to enforce the provisions the criminal price gouging statute.

Related Legislation:

- SB 36 (Umberg) expands civil and criminal penalties related to price gouging during a state of emergency. SB 36 is pending in this Committee.
- AB 380 (M. Gonzalez) extends the duration of specified price gouging protections during a state of emergency. AB 380 is pending on the Assembly Appropriations Committee Suspense File.

Staff Comments: DOJ notes that, while the impact of this bill would not pose a significant impact to the DOJ, as numerous bills this session may result in no significant impact to the DOJ, should an aggregate of these bills chapter, the DOJ would submit a workload BCP for additional resources to process the increase to the DOJ workload.

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