		Summary of State "Price Gouging" Statutes and	Regulations*	
State	Authority	Prohibited Acts	Penalties	Enforced by
AL	Ala. Code §§ 8-31-1 thru 8-31-6	Prohibits "unconscionable prices" for sale or rental of any commodities or rental facilities during a declared state of emergency. A price is prima facie "unconscionable" if it exceeds 25% of the average price during the last 30 days immediately prior to the declared emergency and that increase is not attributable to reasonable costs.	\$1,000 per violation, not to exceed \$25,000 per 24 hour period	State Attorney General or District Attorney
AR	A.C.A. § 4-88-301 - 4-88-305	Prohibits "excessive and unjustified" increases in prices of essential consumer goods and services (including gasoline) during a federal, state, or local declared emergency or "red condition" declared by the federal or state Departments of Homeland Security. An "excessive and unjustified" price is identified as a price of more than 10% above the price charged immediately prior to the declared emergency (unless increase was directly attributable to costs charged by a supplier and/or incurred in procuring the goods).		State Attorney General; Private Plaintiff
CA	Cal. Pen. Code § 396	Prohibits sales or offers to sell consumer goods and services (including fuel) at a price of more than 10% above the price charged for those goods and services immediately prior to a federal, state, or local declared emergency. A violation does not occur if the price increase is directly attributable to increased costs from a supplier or costs incurred in providing the service during the emergency, provided that the additional costs represents no more than 10% above the cost to the seller plus a customary markup.	\$2500 per violation plus injunction and/or restitution. Criminal penalties available.	State Attorney General, District Attorney, City Attorney, or City Prosecutors. Private Plaintiff (only injunctive relief and/or restitution)
CN	Conn. Gen. Stat. § 42-230	Prohibits price increases for any item during a federal or state declared disaster.	\$5,000 per violation. Violation of statute is a violation of Connecticut general consumer protection statute.	State Attorney General
D.C.	D.C. Code § 28-4101 thru 28- 4102	Prohibits charging "more than the normal average price" for any merchandise or service during a natural disaster or declared state of emergency. Normal average price for services is defined as "not more than 10%" above the price existing in the 90-days preceding the disaster or declared emergency. Normal average price for goods is defined as "the price equal to the wholesale cost plus a retail markup that is the same percentage over wholesale cost as the retail markup" for the same product in the 90 days immediately preceding the disaster or declared emergency.	\$1000 maximum fine plus revocation of license and/or permit.	D.C. Attorney General
FL	Fla. Stat. Ann. § 501.160	Prohibits "unconscionable" prices for any essential commodity during a state declared emergency. An unconscionable price is defined as an amount the represents a "gross disparity" between the price of the commodity charged and the average price of the same item during the 30 days immediately prior to the declared emergency, providing that the increased price is not directly attributable to additional costs.	\$1,000 per violation and up to \$25,000 for multiple violations within 24 hour period.	State Attorney General and/or Florida Dept. Agriculture and Consumer Services.

GA	Ga. Code Ann. § 10-1-393.4	Prohibits prices that are higher than the price at which any necessary goods or services were sold or offered for sale immediately prior to a state declared emergency. Prices may be increased in an amount that "accurately reflects" an increase in cost or increase in transporting the goods or services to the area	\$5000 per violation. Increased fines of \$15,000 where violation involves goods and/or services related to repairs of structures damaged by the disaster.	Georgia Governor's Office of Consumer Affairs
НІ	Haw. Rev. Stat. § 209-9	Prohibits any increase in the selling price of any commodity (at retail or wholesale) during a state declared emergency or severe weather warning.	Violation is a violation of Hawaii consumer protection statutes.	Hawaii Office of Consumer Protection
ID	Idaho Code § 48-603	Prohibits "excessive or exorbitant" prices for consumer fuel, food, pharmaceuticals, or water during a state declared emergency. Court may consider additional costs incurred because of the disaster or emergency in determining whether a price was excessive or exorbitant.	\$5000 per violation plus restitution and injunctive relief.	State Attorney General
ΊL	III. Admin. Code tit. 14, §§ 465.10 thru 465.30	Declares the sale or offer for sale of petroleum products during any "market emergency" at an unconscionably high price. A price is unconscionably high if (1) the amount charged is a gross disparity between the price of the petroleum product and (i) the price at which the same product was sold or offered for sale in the usual course of business immediately prior to the onset of the market emergency; or (ii) the price at which the same or similar petroleum product is readily obtainable by other buyers in the trade area, and (2) disparity is not substantially attributable to increased prices charged by suppliers or increased costs due to an "abnormal market disruption."	Violation is a violation of Illinois general consumer protection act.	State Attorney General
IN	Ind. Code §§ 4-6-9.1-1 thru 4-6-9.1-7	Grants investigatory and enforcement authority to the State Attorney General regarding alleged instances of "price gouging" with respect to fuel prices. Price gouging occurs if (1) an amount charged grossly exceeds the average price at which fuel was readily available during the seven (7) days immediately prior to a declared emergency; and (2) the increase is not attributable to costs incurred by the seller.	\$1000 per violation plus restitution and injunctive relief.	State Attorney General
IA	61 IAC 31.1(714)	Prohibits "excessive prices" for "merchandise needed by victims of disasters" during a declared emergency and any subsequent recovery period. An "excessive price" is a price that is not justified by seller's actual cost plus a reasonable profit. A presumption of excessive price exists from a "substantial increase" in price over the price that existed immediately prior to the onset of the emergency.		State Attorney General
KS	K.S.A. § 50-6,106	Prohibits "unjustifiably" increasing prices for any necessary property or service during a time of disaster. A price is prima facie "unjustified" if it grossly exceeds the price charged by the supplier on the business day before the disaster (increase of more than 25% equals "gross excess"). Court may consider whether the increase was attributable to additional costs incurred by the seller.	\$10,000 per violation. Increased by \$5000 if committed against elderly or disabled.	State Attorney General, District Attorney, County Attorney
KY	Ky. Rev. Stat. Ann. § 367.374	Prohibits prices for enumerated products and services (including fuel) that are "grossly in excess" of prices that existed prior to a state declared emergency or condition red declared by the U.S. or Kentucky departments of Homeland Security, and which increase is unrelated to any increased cost to the seller.	\$5000 for initial offense, \$10,000 for additional offenses. Violation is violation of Kentucky consumer protection statutes.	State Attorney General

LA	LA R.S. 29:732	Prohibits receipt of value for goods and services that exceeds the prices ordinarily charged for comparable goods and services in a market area under a state or local emergency and/or during a named tropical storm or hurricane in or threatening the Gulf of Mexico. Value received may include reasonable expense and costs necessarily incurred in procuring the goods and services during the emergency.	Violation is violation of Louisiana consumer protection laws. Civil penalties include restitution and/or injunctive relief. Substantial criminal penalties (including fines and and imprisonment) if violation resulted in serious bodily injury and/or death.	Attorney General, District Attorney, or Parish Attorney
ME	Me. Rev. Stat. Ann. § 1105	Prohibits "profiteering in necessities." Prohibits willful destruction or permitting preventable waste in the production, manufacture, storage or distribution of necessities with the intent to enhance the price or restrict the supply of necessities. Also prohibits any "unjust or unreasonable profit" in the sale or exchange of necessities, including any contract, combination, conspiracy, or aiding and/or abetting the same.	Civil penalties of \$10,000. Criminal penalties available	State Attorney General; Private Plaintiff
MA	Md. Reg. Code tit. 940, § 3.18	Prohibits the sale or offer to sale of any petroleum product by any petroleum-related business at "unconscionably high" prices during any market emergency. An unconscionably high price exists if there is a gross disparity between the price charged and (i) price at which similar products were sold immediately before the emergency or (2) price at which the same or similar products are readily obtainable in the same trade area; and (3) the disparity is not due to increased costs caused by the abnormal market disruption.	\$5,000 per violation	State Attorney General, Private Plaintiff
MI	Mich. Stat. Ann. § 445.903(z)	Prohibits prices that are "grossly in excess" of price at which similar property and/or services are sold. No requirement of emergency.	Up to \$25,000	State Attorney General
MS	Miss. Code Ann. § 75-24-25	Prohibits receipt of value for all goods and services in excess of prices ordinarily charged for comparable goods and services during a declared state of emergency. Value received may include expenses and costs incurred as a result of obtaining and/or providing the goods and/or services during the emergency.	\$10,000 per violation. Criminal penalties available (violation can be either misdemeanor or felony)	State Attorney General
МО		mental impairment and/or hardship to charge a price substantially above the previous market price.		State Attorney General, District Attorney, Private Plaintiff
NJ	N.J.S.A. §§ 56:8- 107 to 8:109	Prohibits "excessive" price increases for necessities during a declared state of emergency. A price is excessive if it is more than 10% above the price at which the good or service was offered immediately prior to the state of emergency and such increase was not attributable to additional costs due to the state of emergency.	\$10,000 for initial violation, \$20,000 for additional violations	State Attorney General, Private Plaintiff

NY	r	Prohibits "unconscionably excessive" prices charged by any party within the chain of distribution for necessary consumer goods and services during a declared state of emergency. Prima facie proof of "unconscionably excessive" includes evidence that (i) of a gross disparity between the amount charged and price for the same goods immediately prior to the abnormal disruption; or (ii) the amount charged grossly exceeds price at which same or similar products were readily obtainable in the same area. Defendant may rebut with evidence that price was result of additional costs outside of his/her control. Prohibits "unreasonably excessive" prices during a declared state of disaster. Court will consider (i) whether the price charged is attributable to additional costs imposed or incurred during the state of disaster; and (ii) whether the seller offered to sell or rent the	\$10,000 and restitution \$5,000 per violation	State Attorney General State Attorney General; Private Plaintiff
ОК	15 OK St. §§ 777.1 thru 777.5	merchandise at a price that was below the seller's average price during the 60 days before the state of disaster. Prohibits prices at more than 10% above the price for goods, services, dwelling units, or storage space charged immediately prior to a declared state of emergency unless the increase is attributable only to factors "unrelated" to the emergency and does not include any increase in profit.	Up to \$10,000 per violation plus costs. Criminal penalties available (violation can be misdemeanor or felony).	Attorney General, District Attorney
SC	S.C. Code Ann. § 39-5-145	Prohibits "unconscionable prices" on the sale of commodities or dwelling units during a declared state of emergency. An "unconscionable price" is a price that (i) represents a gross disparity between the price charged and the price of the same or similar goods during the 30 days prior to the declared emergency; or (ii) grossly exceeds the average price at which the same or similar commodity was readily obtainable in the same area during the 30 days prior to the declared emergency unless the increase is attributable to additional costs.	Violation of South Carolina unfair practices act and subject to \$5000 per violation. Increase to \$15,000 if violation of imposed injunction.	State Attorney General; District Attorney
TN		Prohibits "excessive and unjustified" increases in price for necessary consumer goods and services during a declared state of emergency. An "excessive and unjustified" increase in price is a increase that grossly exceeds the price generally charged for the same product immediately prior to the emergency and the increase is not directly attributable to additional costs.	\$1000 per violation	State Attorney General
TX			Up to \$20,000 per violation.	State Attorney General, District Attorney, or County Attorney
VA	Va. Code §§ 59.1- 525 et seq	Prohibits "unconscionable" prices for necessities during a declared state of emergency. Courts will consider whether price charged grossly exceeded the price charged for the same or similar products in the 10 days prior to the emergency. Consideration is also given to whether an increase in price was attributable "solely to additional costs incurred" by the seller.	\$25,000 per willful violation	State Attorney General, Commonwealth Attorneys, City, Town, and County Attorneys
WV	W.V. Code § 46A- 6J-1	Prohibits prices at more than 10% above the price for necessary goods and services during the 10 days before a declared emergency unless the increase is attributable to increased costs associated with providing the good and/or service during the emergency.	Violation is violation of West Virginia consumer protection laws. Civil and criminal penalities available	State Attorney General

*Adapted and revised by Rebecca H. Benavides, an associate in the Houston office of Fulbright & Jaworski L.L.P., from the National Conference of State Legislatures, Energy and Electric Utilities, State Laws and Regulations: Price Gouging (10/8/2004), available online at http:///www.ncsl.org/programs/energy/lawsgouging.htm (visited 3/22/2006). Ms. Benavides practice area includes Antitrust, Marketing and Trade Regulation and Energy Litigation.