

update

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Hurricane Florence Prompts Governor to Issue Hours of Service and Weight Waivers

In anticipation of the Hurricane Florence, Governor Northam released an emergency declaration today that includes a waiver of the hours of service and weight regulations. While not explicitly specified in the past, the language "heating oil, motor fuels, and propane" is included in the order. Please remember that this applies to state roads only, but that PMAA and others are seeking federal declarations to expand such waivers to interstates.

A copy of the waiver can be [found here](#) and **needs to be carried in all transports as long as the waiver is in effect.** (30 days unless repealed earlier.)

Pride Gouging Law Now in Effect

Any time a state of emergency is declared, it triggers implementation of the state price gouging law. We remind you that this law provides that sellers of "essential commodities" (including motor fuel, heating oil and propane) cannot charge an "unconscionable" price during the next 30 days.

The term "unconscionable" is undefined in the code, but during past emergencies businesses have been convicted of price gouging if they increased their prices more than 20 percent over the prevailing price in the same market in the 10 days preceding the emergency declaration. It is important to note that under the law, any price increases which are the result of increases by suppliers are not price gouging.

You should forward this information to all those in your company who are responsible for pricing decisions, and recognize that prices may come under increased scrutiny. You should also maintain records of all price changes from your supplier(s) over the next 30 days.

The relevant portion of the law states:

§ 59.1-527. Prohibitions.

During any time of disaster, it shall be unlawful for any supplier to sell, lease, or license, or to offer to sell, lease, or license, any necessary goods and services at an unconscionable price within the area for which the state of emergency is declared. Actual sales at the increased price shall not be required for the increase to be considered unconscionable. In determining whether a price increase is unconscionable, the following shall be considered:

1. Whether the price charged by the supplier grossly exceeded the price charged by the supplier for the same or similar goods or services during the 10 days immediately prior to the time of disaster, provided that, with respect to any supplier who was offering a good or service at a reduced price immediately prior to the time of disaster, the price at which the supplier usually offers the good or service shall be used as the benchmark for these purposes;
2. Whether the price charged by the supplier grossly exceeded the price at which the same or similar goods or services were readily obtainable by consumers in the trade area during the 10 days immediately prior to the time of disaster;
3. Whether the increase in the amount charged by the supplier was attributable solely to additional costs incurred by the supplier in connection with the sale of the goods or services, including additional costs imposed by the supplier's source. Proof that the supplier incurred such additional costs during the time of disaster shall be prima facie evidence that the price increase was not unconscionable; and
4. Whether the increase in the amount charged by the supplier was attributable solely to a regular seasonal or holiday adjustment in the price charged for the good or service. Proof that the supplier regularly increased the price for a particular good or service during portions of the period covered by the time of disaster would be prima facie evidence that the price increase was not unconscionable during those periods.