



# update

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## Weight and Hours of Service Waivers on Interstates

Yesterday we received an inquiry whether the weight and hour waivers applied on interstate highways. Thanks to some excellent work by PMAA we were able to get the answer from the Federal Motor Carrier Safety Administration. Here it is:

"The emergency waiver applies to all transportation within or between states, as long as the transportation is in direct relief of a declared emergency."

- Jon Dierberger, Federal Motor Carrier Safety Administration

Copy this and place it in all trucks for the duration of the waivers.

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## Price Gouging

The issuance of Friday's emergency declaration triggered Virginia's price gouging statute. This declaration is unlike others in that it only applies to gasoline. Should we see shortages there will be likely be upward pressure on prices. Under Virginia's price gouging law it is illegal to charge an "unconscionable" price. There have been few enforcement actions since this law took effect 10 years ago. However, in those instances the Attorney General found that sellers had increased prices more than 10 percent over the average price charged for the same product in the 10 days preceding the emergency.

Price increases which are due to increases from your suppliers are NOT included in this equation. Please keep careful track of prices, particularly any increases that are imposed by your suppliers. When past price gouging complaints have been filed, the response has almost always been that the seller made pricing decisions to maintain existing supply of fuel for those in need. Please be aware that this strategy is in conflict with the statute.

Following is the relevant section of the law:

*Code of Virginia*

*Table of Contents » Title 59.1. Trade and Commerce » Chapter 46. Virginia Post-Disaster Anti-Price Gouging Act » § 59.1-527. Prohibitions*

*Section*

*§ 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.*

*2004, cc. 798, 817.*