



Office of the San Diego City Attorney

Mara W. Elliott
City Attorney

May 12, 2020

The Honorable Tom Umberg
California State Senate
State Capitol Building, Room 3076
Sacramento, California 95814

RE: SENATE BILL 1196 (SUPPORT)

Dear Senator Umberg,

The San Diego City Attorney's Office is pleased to support your Senate Bill 1196, to strengthen California law concerning price gouging during declared emergencies.

The deterrence and prosecution of price gouging during emergencies is critical to the health and safety of Californians, as we have seen during the COVID-19 pandemic, in which products such as hand sanitizer and protective face masks, have been hoarded and sold at prices that exploit the consumer. Concerns about price gouging, in stores and on line, have led to hundreds of complaints to law enforcement offices in the San Diego region. SB 1196 will make it easier to prosecute these crimes under the California Penal Code.

In its present form, Penal Code section 396 makes it unlawful during a declared emergency to sell essential consumer goods or services for a price that is more than 10 percent greater than the sellers charged previously, unless the price increase reflects increased costs to the seller. Requiring that these abusive prices be benchmarked against pre-emergency prices, however, can act as a deterrent to the prosecution of new sellers and online sellers.

SB 1196 eliminates the loophole for new sellers by specifically applying the law to those who did not sell prior to the emergency, and by establishing a pricing measure of cost plus a 50 percent profit to determine if such pricing constitutes unlawful gouging. It also provides a non-codified statement of legislative intent that all sales, including online sales, are covered by the price gouging prohibition.

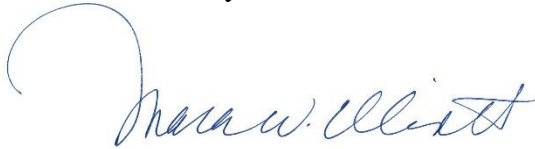
SB 1196 addresses other deficiencies in current law, including authorizing the Governor or Legislature to extend price gouging prohibitions for periods greater than 30 days, as needed, and clarifying that the law applies during pandemic or epidemic disease outbreaks, among other enumerated emergency situations such as earthquakes and floods.

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The coronavirus pandemic has highlighted the importance of a comprehensive and effective law that allows for efficient prosecution of price gouging during emergencies. Prosecutors have identified areas where existing law can be clarified and strengthened, and SB 1196 addresses these areas in a comprehensive manner that will protect the health and safety of all California consumers.

For these reasons, the San Diego City Attorney's Office strongly supports SB 1196 and urges its swift approval by members of the California Legislature.

Sincerely,

A handwritten signature in blue ink, reading "Mara W. Elliott". The signature is written in a cursive style with a large, looping initial "M".

Mara W. Elliott
San Diego City Attorney