

# CLIENT ALERTS

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## [Re]Seller Beware! Michigan Expands Laws Aimed At Curbing Price Gouging During State of Emergency

3.17.2020

On March 15, 2020, Governor Whitmer signed Executive Order 2020-8 ("Order"), which temporarily imposes enhanced restrictions on the excessive pricing of goods, materials, emergency supplies, and consumer food items.

Under this Order, both businesses and individuals are precluded from reselling items purchased at retail at a price that it is "grossly in excess" of the price at which the item was originally purchased. In addition, the Order provides that retailers and individuals are precluded from selling items at 20% higher than what it was listed for sale as of March 9, 2020, unless they can justify the price increase as a true cost for bringing the item to market. Unfortunately, the Order does not indicate what would be deemed "grossly in excess" of the price paid for resales, although it could be argued the 20% increase is applicable to resellers, as well. While not all retailers and resellers will engage in price gouging, there are those that have and likely will continue their attempts to prey on the insecurities of society during this pandemic. Online marketplaces are particularly troublesome, with resellers listing household and personal care items for hundreds of times over the regular retail price. For example, on March 19, 2020, a listing on the website Bonanza had a 15-count package of Clorox® wipes listed for \$26.00 and a 24-count package to wet ones® was listed for \$18.00. For an item typically sold for a few dollars, these mark-ups would most likely qualify as "grossly in excess" of the price paid.

In her Press Release for the Order, Governor Whitmer stated: "[in] these challenging times, we need to come together as Michiganders. This order will help protect consumers from price gouging." The Governor and Attorney General are working together to ensure that this and any other orders are enforced and the bad actors are held accountable. A willful violation of Executive Order 2020-08 is a misdemeanor.

### Related Services

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For more information on this Order and other laws and proclamations related to the Coronavirus pandemic, contact your Butzel Long attorney or visit Butzel Long's COVID-19 Resource Center.

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