

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 36 (Umberg, Smallwood-Cuevas)

Version: February 24, 2025

Hearing Date: April 8, 2025

Fiscal: Yes

Urgency: No

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SUBJECT

Price gouging: state of emergency

DIGEST

This bill strengthens the laws protecting those affected by wildfires and other emergencies in the state, including from price gouging.

EXECUTIVE SUMMARY

The aftermath of an emergency, such as a natural disaster or other crisis, represents a uniquely vulnerable period for affected communities, characterized by significant emotional, physical, and economic challenges. During these critical moments, victims are particularly susceptible to predatory business practices and fraudulent schemes that can exacerbate their existing hardships.

Survivors often face immediate pressures to secure housing, replace essential goods, and initiate reconstruction efforts, all while managing limited financial resources. Unscrupulous actors frequently exploit this vulnerability through price gouging – dramatically increasing the cost of essential goods and services during emergency periods. Comprehensive legal protections are essential to mitigate these risks and ensure equitable recovery for disaster-impacted populations.

This bill, a part of the Senate’s Golden State Commitment legislative package to strengthen wildfire recovery, bolsters protections for those affected by wildfires and other crises in the state. It does so by reinforcing laws aimed at preventing price gouging and other predatory practices targeting consumers affected by emergencies. It also enlists online housing platforms to help root out such practices in the housing stock in the wake of a disaster. The bill is author-sponsored. It is supported by Consumer Watchdog. No timely opposition was received by the Committee. Should the bill pass out of this Committee, it will next be heard in the Senate Public Safety Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Unfair Competition Law (UCL), which provides a statutory cause of action for any unlawful, unfair, or fraudulent business act or practice and unfair, deceptive, untrue, or misleading advertising, including over the internet. (Bus. & Prof. Code § 17200 et seq.)
- 2) Defines “unfair competition” to mean and include any unlawful, unfair, or fraudulent business act or practice and any unfair, deceptive, untrue, or misleading advertising, and any act prohibited by the False Advertising Law (FAL), Business and Professions Code section 17500 et seq. (Bus. & Prof. Code § 17200.)
- 3) Provides that any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. (Bus. & Prof. Code § 17203.)
- 4) Requires actions for relief pursuant to the UCL be prosecuted exclusively in a court of competent jurisdiction and only by the following:
 - a) the Attorney General;
 - b) a district attorney;
 - c) a county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance;
 - d) a city attorney of a city having a population in excess of 750,000;
 - e) a county counsel of any county within which a city has a population in excess of 750,000;
 - f) a city attorney in a city and county;
 - g) a city prosecutor in a city having a full-time city prosecutor in the name of the people of the State of California upon their own complaint or upon the complaint of a board, officer, person, corporation, or association with the consent of the district attorney; or
 - h) a person who has suffered injury in fact and has lost money or property as a result of the unfair competition. (Bus. & Prof. Code § 17204.)
- 5) Provides that any person who engages, has engaged, or proposes to engage in unfair competition is liable for a civil penalty not to exceed \$2,500 for each violation. The court shall impose a civil penalty for each violation. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct

occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth. (Bus. & Prof. Code § 17206.)

- 6) Establishes the Consumer Legal Remedies Act (CLRA), which prohibits unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services to any consumer. (Civ. Code § 1750 et seq.)
- 7) Provides that any consumer who suffers any damage as a result of the use or employment by any person of a method, act, or practice declared to be unlawful by Section 1770 of the Civil Code may bring an action against that person to recover or obtain any of the following:
 - a) actual damages, but in no case shall the total award of damages in a class action be less than \$1,000;
 - b) an order enjoining the methods, acts, or practices;
 - c) restitution of property;
 - d) punitive damages;
 - e) court costs and attorney's fees to a prevailing plaintiff. However, reasonable attorney's fees may be awarded to a prevailing defendant upon a finding by the court that the plaintiff's prosecution of the action was not in good faith; and
 - f) any other relief that the court deems proper. (Civ. Code § 1780(a), (e).)
- 8) Requires the trier of fact, when an action is brought on behalf of or for the benefit of senior citizens, disabled persons, or veterans ("protected persons"), as those are defined, to redress unfair or deceptive acts or practices or unfair methods of competition, to consider the following factors in addition to other appropriate factors in determining the amount of a fine, civil penalty or other penalty, or other remedy to impose whenever the trier of fact is authorized by statute to impose a fine, penalty, or any other remedy the purpose or effect of which is to punish or deter and the amount of the fine, penalty, or remedy is subject to the trier of fact's discretion:
 - a) Whether the defendant knew or should have known that their conduct was directed to one or more protected persons.
 - b) Whether the defendant's conduct caused one or more protected persons to suffer: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement, or for personal or family care and maintenance; or substantial loss of payments received under a pension or retirement plan or a government benefits program, or assets essential to the health or welfare of the protected person.
 - c) Whether one or more protected persons are substantially more vulnerable than other members of the public to the defendant's conduct because of age, poor health or infirmity, impaired understanding, restricted mobility,

or disability, and actually suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct. (Civ. Code § 3345.)

- 9) Authorizes the trier of fact, when it makes an affirmative finding in regard to the specified factors above, to impose a fine, civil penalty or other penalty, or other remedy in an amount up to three times greater than authorized by the statute, or, where the statute does not authorize a specific amount, up to three times greater than the amount the trier of fact would impose in the absence of that affirmative finding. (Civ. Code § 3345.)
- 10) Provides that upon the declaration of a state of emergency or local emergency resulting from specified crises, including earthquakes, floods, fires, and other disasters, and for a period following that declaration, it is unlawful for a person, contractor, business, or other entity to sell or offer to sell specified goods and services, such as consumer food items, goods or services used for emergency cleanup, emergency supplies, building materials, housing, gasoline or repair or reconstruction services for a price of more than 10 percent above the price charged immediately prior to the proclamation of emergency. (Pen. Code § 396.)

This bill:

- 1) Provides that, in addition to any liability for a civil penalty pursuant to Section 17206, a person who violates the UCL, if the act or acts of unfair competition are perpetrated against one or more persons displaced due to a state of emergency or local emergency, shall be liable for a civil penalty not to exceed \$2,500 for each violation, which may be assessed and recovered in a civil action as prescribed in Section 17206.
- 2) Makes it unlawful pursuant to the CLRA to engage in a violation of Section 396 of the Penal Code, including, but not limited to, price gouging during a state of emergency or local emergency.
- 3) Adds persons displaced due to a state of emergency or a local emergency, as defined, to the protected persons eligible for enhanced remedies pursuant to Section 3345.
- 4) Updates Section 396 to explicitly define and prohibit "price gouging" and reworks the provisions governing extensions of the relevant periods in which the section is in effect. It states that Section 396 applies to all counties in the proclamation or declaration of emergency as well as all adjacent counties and counties within a 50-mile radius of the counties in the proclamation or declaration of emergency.

- 5) Requires a housing listing platform to do all of the following:
 - a) Alert local, regional, or state law enforcement agencies if it knows or has reason to believe that the price for a listing made available on the housing listing platform violates Section 396 of the Penal Code.
 - b) Establish and maintain a policy informing a person that listings are prohibited from violating Section 396 of the Penal Code, and that failure to comply may include consequences including, but not limited to, suspension or termination of the person's account.
 - c) Provide a mechanism on the housing listing platform that allows any individual to notify the housing listing platform that a person may have violated Section 396 of the Penal Code.
 - d) Provide a mechanism on the housing listing platform that allows the housing listing platform and law enforcement to communicate in a timely and confidential manner, including by means of a link to a dedicated web page, online portal, or point of contact and ensure timely replies to law enforcement requests, including warrants, subpoenas, and other legal processes.
 - e) Maintain internal written policies, systems, and staff to monitor listings in order to affirmatively prevent price gouging.
- 6) Requires the policy and mechanism required hereby to be publicly posted and readily accessible to users.
- 7) Defines a "housing listing platform" as an internet website, application, or other similar centralized platform that acts as an intermediary between a consumer and another person which allows another person to list the availability of housing, lodging, or units for sale or for rent to a consumer.
- 8) Provides that a search warrant may be issued when the property or things to be seized consist of evidence that tends to show that a price gouging violation, as specified in Section 396, has occurred or is occurring.

COMMENTS

1. California's consumer protection laws

The Legislature has long considered consumer protection to be a matter of high importance. State law is replete with statutes aimed at protecting California consumers from unfair, dishonest, or harmful market practices. These consumer-protection laws authorize public prosecutors to take action against those responsible, but also empower consumers to enforce their own rights and seek remedies to make them whole.

The UCL (Bus. & Prof. Code § 17200) provides remedies for "anything that can properly be called a business practice and that at the same time is forbidden by law." (*Cel-Tech*

Communications, Inc. v. Los Angeles Cellular Telephone Co. (1999) 20 Cal.4th 163, 180 [citations omitted].) The UCL provides that a court “may make such orders or judgments . . . as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition.” (Bus. & Prof. Code § 17203; see also *Korea Supply Co. v. Lockheed Martin Corp.* (2003) 29 Cal.4th 1134, 1146 [“An order for restitution, then, is authorized by the clear language of the [UCL.”]].) The law also permits courts to award injunctive relief and, in certain cases, to assess civil penalties against the violator. (Bus. & Prof. Code §§ 17203, 17206.)

The FAL proscribes making or disseminating any statement that is known or should be known to be untrue or misleading with intent to directly or indirectly dispose of real or personal property. (Bus. & Prof. Code § 17500 et seq.) Violators are subject to a civil penalty not to exceed \$2,500 for each violation in an action brought by the Attorney General or by any district attorney, county counsel, or city attorney. (Bus. & Prof. Code § 17536.) Similar to the UCL, the FAL provides that a person may bring an action for an injunction or restitution if the person has suffered injury in fact and has lost money or property as a result of a violation of the FAL. (Bus. & Prof. Code § 17535.)

The CLRA was enacted “to protect the statute’s beneficiaries from deceptive and unfair business practices,” and to provide aggrieved consumers with “strong remedial provisions for violations of the statute.” (*Am. Online, Inc. v. Superior Court* (2001) 90 Cal.App.4th 1, 11.) The CLRA prohibits “unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services to any consumer,” (Civ. Code § 1770(a)), and prohibits conduct “likely to mislead a reasonable consumer,” (*Colgan v. Leatherman Tool Grp., Inc.* (2006) 135 Cal. App. 4th 663, 680; internal quotation marks omitted.)

Among other things, the CLRA prohibits merchants from “representing that a transaction confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law,” or representing that goods “are of a particular standard, quality, or grade” when they are of another. (Civ. Code § 1770.) Consumers who are harmed by unlawful practices specified in the Act have a right of action under the CLRA to recover damages and other remedies, including actual damages; an order to enjoin the unlawful act; restitution; punitive damages; or any other relief that the court deems proper. (Civ. Code § 1780.) Additionally, the statute authorizes courts to award attorney’s fees to prevailing plaintiffs and contains mechanisms for securing remedies on a class-wide basis. (Civ. Code §§ 1780, 1781.) Consumers who are over the age of 65 are eligible to additionally seek and be awarded, in addition to the above remedies, up to \$5,000 where the trier of fact finds certain circumstances are met.

In addition, Civil Code section 3345 authorizes a trier of fact to treble the amount of a fine, civil penalty, or other remedy in an action brought to redress unfair or deceptive

acts or practices or unfair competition brought by, on behalf of, or for the benefit of a senior citizen, disabled person, or veteran if certain affirmative findings are made. (Civ. Code § 3345.)

2. Enhancing protections for Californians affected by wildfires and other emergencies

Economic vulnerability is a primary concern in disaster scenarios. In an effort to rebuild their lives, those affected by wildfires, earthquakes, pandemics, and other crises struggle to secure housing, replace essential goods, and initiate reconstruction efforts.

Without robust legal safeguards, basic necessities like water, medical supplies, building materials, temporary housing, and emergency repairs can become financially inaccessible to those most in need as the result of price gouging and other predatory conduct. Reports of such conduct in the aftermath of the recent fires in Southern California illustrate the problem:

Laura Kate Jones, a real estate agent in Los Angeles, is trying to find a house for a client whose Pacific Palisades home turned to rubble this week. The woman and her two children were left with no belongings but the clothes on their backs.

Ms. Jones has been scouring the West Los Angeles rental market to find a house that the family could rent for the next eight months, or longer. On Friday morning, she noticed something disturbing on the rents of at least three of the properties she had been tracking: 15 to 20 percent increases overnight.

The sudden surge in rental costs took Ms. Jones by surprise, but aligned with what she has noticed since wildfires started to tear through the Los Angeles area on Tuesday. Ms. Jones was touring a rental house in Beverly Hills with her client on Thursday when the listing agent raised the monthly cost by \$3,000 — on the spot. Agents and landlords are aware that some displaced Angelenos might be willing to pay given the circumstance.

“People are so panicked and desperate to get into a house right now that they’re just throwing money into the wind,” Ms. Jones said. “People taking advantage of this. It’s horrendous.”¹

¹ Danielle Kaye, *Prices Spike on Some L.A. Rentals as Fire Victims Search for Places to Stay* (January 10, 2025) The New York Times, <https://www.nytimes.com/2025/01/10/business/california-fires-rent-price-gouging.html> [as of Mar. 26, 2025].

Effective legislation must establish clear guidelines that prevent dramatic price increases during declared emergencies, with meaningful penalties that significantly outweigh potential illicit gains. In many cases, such protections must also extend beyond immediate emergency periods, recognizing that the potential for exploitation can persist throughout long-term recovery processes.

This bill augments the consumer protection laws above to deter and provide enhanced remedies in response to such unfair and unlawful conduct committed against those that have been displaced by or otherwise affected by a crisis leading to a state of emergency or a local emergency.

First, the bill adds persons displaced due to a state of emergency or a local emergency, as defined, to the list of protected persons under Civil Code section 3345, providing enhanced remedies for these victims.

Second, in addition to any liability for a civil penalty pursuant to Section 17206, the bill provides that a person in violation of the UCL, if the act or acts of unfair competition are perpetrated against one or more persons displaced due to a state of emergency or local emergency, is liable for a civil penalty not to exceed \$2,500 for each violation, as provided.

Next, the bill makes it unlawful pursuant to the CLRA to engage in a violation of Section 396 of the Penal Code, including, but not limited to, price gouging during a state of emergency or local emergency.

Section 396 provides that, upon the proclamation of a state of emergency by the President of the United States or the Governor, or upon the declaration of a local emergency by the executive officer of any county, city, or city and county, and for 30 days or 180 days, as specified, following the proclamation or declaration of emergency, it is a misdemeanor for a person, contractor, business, or other entity to sell or offer to sell certain goods or services for a price of more than 10 percent greater than the price charged by that person immediately prior to the proclamation or declaration of emergency.

The bill also expands Section 396 protection to apply to all counties in the proclamation or declaration of emergency as well as all adjacent counties and counties within a 50-mile radius of the counties in the proclamation or declaration of emergency. It also defines price gouging for those purposes and updates the guidelines governing extensions of its provisions.

Finally, the bill places obligations on housing listing platforms to help combat price gouging and root out violations of Section 396. "Housing listing platform" is defined as an internet website, application, or other similar centralized platform that acts as an intermediary between a consumer and another person which allows another person to

list the availability of housing, lodging, or units for sale or for rent to a consumer. The bill requires the platforms to:

- Alert local, regional, or state law enforcement agencies if it knows or has reason to believe that the price for a listing made available on the housing listing platform violates Section 396 of the Penal Code.
- Establish and maintain a policy informing a person that listings are prohibited from violating Section 396 of the Penal Code, and that failure to comply may include consequences including, but not limited to, suspension or termination of the person's account.
- Provide a mechanism on the housing listing platform that allows any individual to notify the housing listing platform that a person may have violated Section 396 of the Penal Code.
- Provide a mechanism on the housing listing platform that allows the housing listing platform and law enforcement to communicate in a timely and confidential manner, including by means of a link to a dedicated web page, online portal, or point of contact and ensure timely replies to law enforcement requests, including warrants, subpoenas, and other legal processes.
- Maintain internal written policies, systems, and staff to monitor listings in order to affirmatively prevent price gouging.

By establishing a robust legal framework that prioritizes the protection of disaster victims, California can create a more resilient and supportive recovery ecosystem. These protections not only provide immediate relief but also contribute to long-term community resilience, ensuring that those most vulnerable can rebuild their lives with dignity and security.

According to the authors:

In times of crisis, Californians should be able to focus on recovery and rebuilding, not on predatory financial exploitation. Unfortunately, recent disasters – such as the devastating January 2025 firestorms – have shown that gaps in our current laws allow opportunists to take advantage of vulnerable, displaced residents.

SB 36 closes these loopholes and strengthens protections against rental price gouging during declared emergencies. Under existing law, price gouging protections apply broadly to goods and services but do not explicitly cover rental housing. As we saw in the aftermath of the Southern California fires, bad actors took advantage of this oversight by listing properties in neighboring counties that were not subject to the emergency declaration, evading accountability while still targeting displaced residents.

SB 36 ensures that disaster victims are not further victimized by financial exploitation. It enhances civil penalties for price gouging, empowers public prosecutors with greater enforcement tools, and extends protections to counties within a 50-mile radius of the affected area to prevent circumvention of the law. Additionally, SB 36 brings accountability to online housing platforms by requiring them to monitor and report instances of price gouging and enforce fair pricing policies.

California has long led the way in protecting consumers, and SB 36 builds on that commitment by closing critical gaps in our price gouging laws. When disaster strikes, Californians deserve stability, fairness, and the assurance that the law will hold those who seek to profit from tragedy accountable. I urge my colleagues to support SB 36 to protect our most vulnerable residents when they need it most.

3. Stakeholder positions

Consumer Watchdog writes in support:

While emergency declarations prohibited excessive rent increases in Los Angeles County, dishonest property owners exploited a loophole by listing rental properties at exorbitant rates in neighboring counties such as Orange County, where no emergency had been declared. This practice obstructed enforcement efforts and placed further hardship on displaced families in desperate need of shelter.

Consumer Watchdog supports SB 36 because it strengthens consumer protections by increasing penalties for price gouging and requiring online housing platforms to enforce fair pricing policies, report violations, and provide mechanisms for consumer complaints. It empowers displaced individuals to take legal action, grants courts the authority to award damages, and enhances prosecutorial tools to investigate and address housing-related price gouging. Additionally, it extends protections to counties within a 50-mile radius of an affected area, preventing exploitation in nearby markets.

SUPPORT

Consumer Attorneys of California
Consumer Watchdog

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation:

SB 547 (Pérez, 2025) expands the current one year insurance non-renewal moratorium for residential policies within the perimeters or adjoining ZIP Codes of wildfires to also include commercial policies. SB 547 is currently in the Senate Insurance Committee.

SB 571 (Archuleta, 2025) provides, among other things, for increased penalties for impersonating firefighters and other first responders, and for looting in a fire evacuation area. SB 571 is currently in the Senate Public Safety Committee.

SB 610 (Pérez, 2025) provides protections for wildfire victims by, among other things, providing temporary mortgage loan forbearance relief for homeowners, allowing tenants to recover a proportion of their paid rent if the tenancy agreement terminates due to a wildfire, establishes a temporary rent control for mobilehomes in areas subject to a state of an emergency, allows mobilehome owners the right to return to a unit after a wildfire, as specified, and extends court timelines for unlawful detainer cases in areas subject to a state of an emergency. SB 610 is currently in this Committee.

SB 641 (Ashby, 2025) protects consumers by, among other things, establishing timelines and certifications for appropriate debris removal and keeping property owners and disaster area survivors safe from predatory practices by prohibiting a person from making an unsolicited purchase offer in a disaster area. SB 641 is currently in the Senate Business and Professions Committee.

Prior Legislation:

AB 1730 (Davies, Ch. 78, Stats. 2022) added veterans to the list of protected persons in Section 3345 of the Civil Code.

SB 1196 (Umberg, Ch. 339, Stats. 2020) expanded Section 396 of the Penal Code to also include selling or offering to sell relevant goods or services for a price 10 percent greater than the price charged immediately prior to a date set by the proclamation or declaration of emergency. It also made it unlawful for a person, contractor, business, or other entity who did not charge a price for the goods or services immediately prior to the proclamation or declaration of emergency to charge a price that is more than 50 percent greater than the seller's existing costs, as specified. SB 1196 authorized the Governor or the Legislature to extend the duration of these prohibitions for periods greater than 30 days, and during the extension, authorized specified price increases that exceed the otherwise permissible amount, as specified.
