Executive Order 2020-18 (COVID-19)

EXECUTIVE ORDER

No. 2020-18

Enhanced restrictions on price gouging

Rescission of Executive Order 2020-8

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Michigan Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401-.421, and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31-.33.

The Emergency Management Act vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)-(2). Similarly, the Emergency Powers of the Governor Act of 1945 provides that, after declaring a state of emergency, "the governor may

promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

Since the onset of this emergency, it has become apparent that some businesses and individuals are selling face masks, hand sanitizers, cleaning supplies, paper products, and other products that people might seek to purchase due to the threat of COVID-19 at unjustified, exceptionally high prices. To prevent such price gouging and help all Michiganders access necessary products during the COVID-19 emergency, it is reasonable and necessary to temporarily impose enhanced restrictions on the excessive pricing of goods, materials, emergency supplies, and consumer food items.

Executive Order 2020-8 imposed such enhanced restrictions. With this order, Executive Order 2020-8 is rescinded. This order imposes substantially similar restrictions, with certain adjustments made to their scope.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. Effective immediately and continuing until April 17, 2020 at 11:59 pm, if a person has acquired any product from a retailer, the person must not resell that product in this state at a price that is grossly in excess of the purchase price at which the person acquired the product.

2. Effective immediately and continuing until April 17, 2020 at 11:59 pm, a person must not offer for sale or sell any product in this state at a price that is more than 20% higher than what the person offered or charged for that product as of March 9, 2020, unless the person demonstrates that the price increase is attributable to an increase in the cost of bringing the product to market or to an extraordinary discount in effect as of March 9, 2020.

3. For purposes of this order:

a. "Person" means an individual, business, or other legal entity.

b. “Product” means any good, material, or consumer food item with a fair market value of less than $1,000.00, or any emergency supply.

4. This order does not limit or impair the ability of the attorney general to investigate, determine, or impose liability under the Michigan consumer protection act, 1976 PA 331, as amended, MCL 445.901-.922, or any other law of this state.

5. Consistent with MCL 10.33 and MCL 30.405(3), a willful violation of this order is a misdemeanor.

6. Executive Order 2020-8 is rescinded.

Given under my hand and the Great Seal of the State of Michigan.

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