STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GRETCHEN WHITMER
GOVERNOR

GARLIN GILCHRIST II
LT. GOVERNOR

EXECUTIVE ORDER

No. 2020-53

SECRETARY OF SENATE
2020 APR 20 AM10:34

Enhanced restrictions on price gouging

Rescission of Executive Order 2020-18

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 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 et seq.

In the three weeks that followed, the virus spread across Michigan, bringing deaths in the hundreds, confirmed cases in the thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the State of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945.

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 crisis, 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 crisis at unjustified, exceptionally high prices. To prevent such price gouging and help all Michiganders access necessary products during the COVID-19 pandemic, 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 2020-18 imposed such enhanced restrictions. This order strengthens them and extends their duration, as they remain reasonable and necessary to suppress the spread of COVID-19 and protect the public health and safety of this state and its residents. With this order, Executive Order 2020-18 is rescinded.

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

1. A person must not resell a product in this state at a price that is grossly in excess of the purchase price at which the person acquired the product.

2. 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 et seq., or any other law of this state.

5. This order is effective immediately and continues through May 15, 2020 at 11:59 pm.

6. Executive Order 2020-18 is rescinded.

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

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

Date: April 17, 2020

Time: 4:06 pm

GRETCHEN WHITMER
GOVERNOR

By the Governor:

SECRETARY OF STATE