

SENATE BILL No. 415

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-5.

Synopsis: Essential off-patent or generic drugs. Prohibits a manufacturer or a wholesale distributor from engaging in price gouging in the sale of an essential off-patent or generic drug. Provides that the office of the secretary of family and social services (office) may provide to the attorney general a written notice of an increase in the price of an essential off-patent or generic drug if the price increase meets specified criteria. Provides that if the attorney general receives a notice of a price increase from the office, the attorney general may request the manufacturer identified in the notice to submit a statement that includes specified information about the increase. Provides that the attorney general has certain powers and duties with respect to price gouging in the sale of an essential off-patent or generic drug, including the power to bring a court action in Marion County if the attorney general determines that price gouging has occurred. Provides that if the court finds that a manufacturer or a wholesale distributor has engaged in price gouging, the court may issue an order to do one or more of the following: (1) Restrain or enjoin the violation. (2) Restore to any consumer (or third party payor) any money obtained by the manufacturer or wholesale distributor as a result of the violation. (3) Require a manufacturer that has engaged in price gouging to make the drug available to participants in certain state health plans or programs for a period of up to one year at the price at which the drug was available to the participants immediately before the effective date of the price increase constituting the violation. (4) Impose a civil penalty of up to \$10,000 for each violation. Provides that a person that engages in price gouging in the sale of an essential off-patent or generic drug
(Continued next page)

Effective: July 1, 2019.

Breaux

January 14, 2019, read first time and referred to Committee on Health and Provider Services.



Digest Continued

commits a deceptive act that is subject to the remedies and penalties set forth in the statute concerning deceptive consumer sales. Makes a conforming amendment.



Introduced

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 415

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-5-0.5-3, AS AMENDED BY P.L.170-2017,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 3. (a) A supplier may not commit an unfair,
4 abusive, or deceptive act, omission, or practice in connection with a
5 consumer transaction. Such an act, omission, or practice by a supplier
6 is a violation of this chapter whether it occurs before, during, or after
7 the transaction. An act, omission, or practice prohibited by this section
8 includes both implicit and explicit misrepresentations.
9 (b) Without limiting the scope of subsection (a), the following acts,
10 and the following representations as to the subject matter of a
11 consumer transaction, made orally, in writing, or by electronic
12 communication, by a supplier, are deceptive acts:
13 (1) That such subject of a consumer transaction has sponsorship,
14 approval, performance, characteristics, accessories, uses, or
15 benefits it does not have which the supplier knows or should



- 1 reasonably know it does not have.
- 2 (2) That such subject of a consumer transaction is of a particular
3 standard, quality, grade, style, or model, if it is not and if the
4 supplier knows or should reasonably know that it is not.
- 5 (3) That such subject of a consumer transaction is new or unused,
6 if it is not and if the supplier knows or should reasonably know
7 that it is not.
- 8 (4) That such subject of a consumer transaction will be supplied
9 to the public in greater quantity than the supplier intends or
10 reasonably expects.
- 11 (5) That replacement or repair constituting the subject of a
12 consumer transaction is needed, if it is not and if the supplier
13 knows or should reasonably know that it is not.
- 14 (6) That a specific price advantage exists as to such subject of a
15 consumer transaction, if it does not and if the supplier knows or
16 should reasonably know that it does not.
- 17 (7) That the supplier has a sponsorship, approval, or affiliation in
18 such consumer transaction the supplier does not have, and which
19 the supplier knows or should reasonably know that the supplier
20 does not have.
- 21 (8) That such consumer transaction involves or does not involve
22 a warranty, a disclaimer of warranties, or other rights, remedies,
23 or obligations, if the representation is false and if the supplier
24 knows or should reasonably know that the representation is false.
- 25 (9) That the consumer will receive a rebate, discount, or other
26 benefit as an inducement for entering into a sale or lease in return
27 for giving the supplier the names of prospective consumers or
28 otherwise helping the supplier to enter into other consumer
29 transactions, if earning the benefit, rebate, or discount is
30 contingent upon the occurrence of an event subsequent to the time
31 the consumer agrees to the purchase or lease.
- 32 (10) That the supplier is able to deliver or complete the subject of
33 the consumer transaction within a stated period of time, when the
34 supplier knows or should reasonably know the supplier could not.
35 If no time period has been stated by the supplier, there is a
36 presumption that the supplier has represented that the supplier
37 will deliver or complete the subject of the consumer transaction
38 within a reasonable time, according to the course of dealing or the
39 usage of the trade.
- 40 (11) That the consumer will be able to purchase the subject of the
41 consumer transaction as advertised by the supplier, if the supplier
42 does not intend to sell it.



- 1 (12) That the replacement or repair constituting the subject of a
 2 consumer transaction can be made by the supplier for the estimate
 3 the supplier gives a customer for the replacement or repair, if the
 4 specified work is completed and:
- 5 (A) the cost exceeds the estimate by an amount equal to or
 6 greater than ten percent (10%) of the estimate;
 - 7 (B) the supplier did not obtain written permission from the
 8 customer to authorize the supplier to complete the work even
 9 if the cost would exceed the amounts specified in clause (A);
 - 10 (C) the total cost for services and parts for a single transaction
 11 is more than seven hundred fifty dollars (\$750); and
 - 12 (D) the supplier knew or reasonably should have known that
 13 the cost would exceed the estimate in the amounts specified in
 14 clause (A).
- 15 (13) That the replacement or repair constituting the subject of a
 16 consumer transaction is needed, and that the supplier disposes of
 17 the part repaired or replaced earlier than seventy-two (72) hours
 18 after both:
- 19 (A) the customer has been notified that the work has been
 20 completed; and
 - 21 (B) the part repaired or replaced has been made available for
 22 examination upon the request of the customer.
- 23 (14) Engaging in the replacement or repair of the subject of a
 24 consumer transaction if the consumer has not authorized the
 25 replacement or repair, and if the supplier knows or should
 26 reasonably know that it is not authorized.
- 27 (15) The act of misrepresenting the geographic location of the
 28 supplier by listing an alternate business name or an assumed
 29 business name (as described in IC 23-0.5-3-4) in a local telephone
 30 directory if:
- 31 (A) the name misrepresents the supplier's geographic location;
 - 32 (B) the listing fails to identify the locality and state of the
 33 supplier's business;
 - 34 (C) calls to the local telephone number are routinely forwarded
 35 or otherwise transferred to a supplier's business location that
 36 is outside the calling area covered by the local telephone
 37 directory; and
 - 38 (D) the supplier's business location is located in a county that
 39 is not contiguous to a county in the calling area covered by the
 40 local telephone directory.
- 41 (16) The act of listing an alternate business name or assumed
 42 business name (as described in IC 23-0.5-3-4) in a directory



- 1 assistance data base if:
- 2 (A) the name misrepresents the supplier's geographic location;
- 3 (B) calls to the local telephone number are routinely forwarded
- 4 or otherwise transferred to a supplier's business location that
- 5 is outside the local calling area; and
- 6 (C) the supplier's business location is located in a county that
- 7 is not contiguous to a county in the local calling area.
- 8 (17) The violation by a supplier of IC 24-3-4 concerning
- 9 cigarettes for import or export.
- 10 (18) The act of a supplier in knowingly selling or reselling a
- 11 product to a consumer if the product has been recalled, whether
- 12 by the order of a court or a regulatory body, or voluntarily by the
- 13 manufacturer, distributor, or retailer, unless the product has been
- 14 repaired or modified to correct the defect that was the subject of
- 15 the recall.
- 16 (19) The violation by a supplier of 47 U.S.C. 227, including any
- 17 rules or regulations issued under 47 U.S.C. 227.
- 18 (20) The violation by a supplier of the federal Fair Debt
- 19 Collection Practices Act (15 U.S.C. 1692 et seq.), including any
- 20 rules or regulations issued under the federal Fair Debt Collection
- 21 Practices Act (15 U.S.C. 1692 et seq.).
- 22 (21) A violation of IC 24-5-7 (concerning health spa services), as
- 23 set forth in IC 24-5-7-17.
- 24 (22) A violation of IC 24-5-8 (concerning business opportunity
- 25 transactions), as set forth in IC 24-5-8-20.
- 26 (23) A violation of IC 24-5-10 (concerning home consumer
- 27 transactions), as set forth in IC 24-5-10-18.
- 28 (24) A violation of IC 24-5-11 (concerning real property
- 29 improvement contracts), as set forth in IC 24-5-11-14.
- 30 (25) A violation of IC 24-5-12 (concerning telephone
- 31 solicitations), as set forth in IC 24-5-12-23.
- 32 (26) A violation of IC 24-5-13.5 (concerning buyback motor
- 33 vehicles), as set forth in IC 24-5-13.5-14.
- 34 (27) A violation of IC 24-5-14 (concerning automatic
- 35 dialing-announcing devices), as set forth in IC 24-5-14-13.
- 36 (28) A violation of IC 24-5-15 (concerning credit services
- 37 organizations), as set forth in IC 24-5-15-11.
- 38 (29) A violation of IC 24-5-16 (concerning unlawful motor
- 39 vehicle subleasing), as set forth in IC 24-5-16-18.
- 40 (30) A violation of IC 24-5-17 (concerning environmental
- 41 marketing claims), as set forth in IC 24-5-17-14.
- 42 (31) A violation of IC 24-5-19 (concerning deceptive commercial



1 solicitation), as set forth in IC 24-5-19-11.

2 (32) A violation of IC 24-5-21 (concerning prescription drug
3 discount cards), as set forth in IC 24-5-21-7.

4 **(33) A violation of IC 24-5-21.5 (concerning essential
5 off-patent or generic drugs), as set forth in IC 24-5-21.5-14(c).**

6 ~~(33)~~ (34) A violation of IC 24-5-23.5-7 (concerning real estate
7 appraisals), as set forth in IC 24-5-23.5-9.

8 ~~(34)~~ (35) A violation of IC 24-5-26 (concerning identity theft), as
9 set forth in IC 24-5-26-3.

10 ~~(35)~~ (36) A violation of IC 24-5.5 (concerning mortgage rescue
11 fraud), as set forth in IC 24-5.5-6-1.

12 ~~(36)~~ (37) A violation of IC 24-8 (concerning promotional gifts
13 and contests), as set forth in IC 24-8-6-3.

14 ~~(37)~~ (38) A violation of IC 21-18.5-6 (concerning representations
15 made by a postsecondary credit bearing proprietary educational
16 institution), as set forth in IC 21-18.5-6-22.5.

17 (c) Any representations on or within a product or its packaging or
18 in advertising or promotional materials which would constitute a
19 deceptive act shall be the deceptive act both of the supplier who places
20 such representation thereon or therein, or who authored such materials,
21 and such other suppliers who shall state orally or in writing that such
22 representation is true if such other supplier shall know or have reason
23 to know that such representation was false.

24 (d) If a supplier shows by a preponderance of the evidence that an
25 act resulted from a bona fide error notwithstanding the maintenance of
26 procedures reasonably adopted to avoid the error, such act shall not be
27 deceptive within the meaning of this chapter.

28 (e) It shall be a defense to any action brought under this chapter that
29 the representation constituting an alleged deceptive act was one made
30 in good faith by the supplier without knowledge of its falsity and in
31 reliance upon the oral or written representations of the manufacturer,
32 the person from whom the supplier acquired the product, any testing
33 organization, or any other person provided that the source thereof is
34 disclosed to the consumer.

35 (f) For purposes of subsection (b)(12), a supplier that provides
36 estimates before performing repair or replacement work for a customer
37 shall give the customer a written estimate itemizing as closely as
38 possible the price for labor and parts necessary for the specific job
39 before commencing the work.

40 (g) For purposes of subsection (b)(15) and (b)(16), a telephone
41 company or other provider of a telephone directory or directory
42 assistance service or its officer or agent is immune from liability for



1 publishing the listing of an alternate business name or assumed
 2 business name of a supplier in its directory or directory assistance data
 3 base unless the telephone company or other provider of a telephone
 4 directory or directory assistance service is the same person as the
 5 supplier who has committed the deceptive act.

6 (h) For purposes of subsection (b)(18), it is an affirmative defense
 7 to any action brought under this chapter that the product has been
 8 altered by a person other than the defendant to render the product
 9 completely incapable of serving its original purpose.

10 SECTION 2. IC 24-5-21.5 IS ADDED TO THE INDIANA CODE
 11 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2019]:

13 **Chapter 21.5. Essential Off-Patent or Generic Drugs**

14 **Sec. 1. (a) As used in this chapter, "essential off-patent or
 15 generic drug" means any prescription drug:**

16 **(1) for which all exclusive marketing rights, if any, granted
 17 under:**

18 **(A) the federal Food, Drug, and Cosmetic Act (21 U.S.C.
 19 301 et seq.);**

20 **(B) Section 351 of the federal Public Health Service Act (42
 21 U.S.C. 262); or**

22 **(C) federal patent law;**

23 **have expired;**

24 **(2) that either:**

25 **(A) appears on the Model List of Essential Medicines most
 26 recently adopted by the World Health Organization; or**

27 **(B) has been designated by the office of the secretary of
 28 family and social services as an essential medicine because
 29 of its efficacy in treating:**

30 **(i) a life-threatening health condition; or**

31 **(ii) a chronic health condition that substantially impairs
 32 an individual's ability to engage in activities of daily
 33 living;**

34 **(3) that is actively manufactured and marketed for sale in the
 35 United States by three (3) or fewer manufacturers; and**

36 **(4) that is made available for sale in Indiana.**

37 **(b) The term includes any product:**

38 **(1) that includes a combination of a drug and a device used to
 39 deliver the drug; and**

40 **(2) for which all exclusive marketing rights, if any, granted
 41 under:**

42 **(A) the federal Food, Drug, and Cosmetic Act (21 U.S.C.**



- 1 **301 et seq.);**
 2 **(B) Section 351 of the federal Public Health Service Act (42**
 3 **U.S.C. 262); or**
 4 **(C) federal patent law;**
 5 **have expired.**
 6 **Sec. 2. As used in this chapter, "health plan" means any of the**
 7 **following:**
 8 **(1) A state employee health plan (as defined in IC 5-10-8-6.7).**
 9 **(2) A policy of accident and sickness insurance (as defined in**
 10 **IC 27-8-5-1).**
 11 **(3) An individual contract (as defined in IC 27-13-1-21) or a**
 12 **group contract (as defined in IC 27-13-1-16).**
 13 **Sec. 3. As used in this chapter, "health program" means any of**
 14 **the following:**
 15 **(1) The children's health insurance program (IC 12-17.6).**
 16 **(2) Medicaid (IC 12-15).**
 17 **(3) The healthy Indiana plan established by IC 12-15-44.5-3.**
 18 **Sec. 4. As used in this chapter, "manufacturer", with respect to**
 19 **a prescription drug, has the meaning set forth in 42 U.S.C.**
 20 **1395w-3a.**
 21 **Sec. 5. As used in this chapter, "price gouging" means an**
 22 **unconscionable increase in the price of a prescription drug.**
 23 **Sec. 6. As used in this chapter, "unconscionable increase", with**
 24 **respect to an increase in the price of a prescription drug, means an**
 25 **increase that:**
 26 **(1) is excessive and not justified by the cost of:**
 27 **(A) producing the drug; or**
 28 **(B) appropriately expanding access to the drug to promote**
 29 **public health; and**
 30 **(2) results in an individual for whom the drug has been**
 31 **prescribed having no meaningful choice about whether to**
 32 **purchase the drug at an excessive price because of:**
 33 **(A) the importance of the drug to the individual's health;**
 34 **and**
 35 **(B) insufficient competition in the marketplace for the**
 36 **drug.**
 37 **Sec. 7. As used in this chapter, "wholesale acquisition cost" has**
 38 **the meaning set forth in 42 U.S.C. 1395w-3a.**
 39 **Sec. 8. As used in this chapter, "wholesale distributor", with**
 40 **respect to a prescription drug, has the meaning set forth in 21**
 41 **U.S.C. 360eee.**
 42 **Sec. 9. (a) A manufacturer or a wholesale distributor shall not**



1 engage in price gouging in the sale of an essential off-patent or
2 generic drug.

3 (b) A wholesale distributor that increases the price of an
4 essential off-patent or generic drug does not violate subsection (a)
5 if the price increase is directly attributable to additional costs for
6 the drug imposed on the wholesale distributor by the manufacturer
7 of the drug.

8 Sec. 10. (a) The office of the secretary of family and social
9 services may provide to the office of the attorney general a written
10 notice of an increase in the price of an essential off-patent or
11 generic drug if:

12 (1) the price increase, by itself or in combination with other
13 price increases with respect to the essential off-patent or
14 generic drug:

15 (A) represents an increase of at least fifty percent (50%) in
16 the wholesale acquisition cost of the drug, as that cost
17 existed at any time during the twelve (12) month period
18 immediately preceding the effective date of the increase; or
19 (B) represents an increase of at least fifty percent (50%) in
20 the price paid by a health plan or health program for the
21 drug at any time during the twelve (12) month period
22 immediately preceding the effective date of the increase;
23 and

24 (2) one (1) of the following would apply after the effective date
25 of the price increase:

26 (A) A thirty (30) day supply of the maximum
27 recommended dosage of the drug for any indication,
28 according to the label for the drug approved under the
29 federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et
30 seq.), would cost more than eighty dollars (\$80) at the
31 drug's wholesale acquisition cost.

32 (B) A full course of treatment with the drug, according to
33 the label for the drug approved under the federal Food,
34 Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), would cost
35 more than eighty dollars (\$80) at the drug's wholesale
36 acquisition cost.

37 (C) If the drug is made available to consumers only in
38 quantities that do not correspond to:

39 (i) a thirty (30) day supply;
40 (ii) a full course of treatment; or
41 (iii) a single dose;

42 obtaining a thirty (30) day supply or a full course of



- 1 treatment would cost more than eighty dollars (\$80) at the
 2 drug's wholesale acquisition cost.
- 3 (b) A notice under subsection (a) must:
- 4 (1) identify the manufacturer of the essential off-patent or
 5 generic drug;
- 6 (2) set forth with particularity the facts demonstrating that
 7 the price increase represents an increase in an amount
 8 described in subsection (a)(1)(A) or (a)(1)(B), or both,
 9 including data on:
- 10 (A) the drug's wholesale acquisition cost; or
 11 (B) the price paid by a health plan or health program for
 12 the drug;
- 13 as applicable, during the twelve (12) month period
 14 immediately preceding the effective date of the increase; and
- 15 (3) set forth with particularity facts demonstrating that the
 16 price increase would result in a price exceeding eighty dollars
 17 (\$80) at the drug's wholesale acquisition cost for one (1) of
 18 the:
- 19 (A) quantities;
 20 (B) treatment courses; or
 21 (C) doses;
- 22 of the drug described in subsection (a)(2).
- 23 Sec. 11. (a) Subject to subsection (b), if the attorney general
 24 receives a notice under section 10 of this chapter, the attorney
 25 general may request the manufacturer identified in the notice to
 26 submit, not later than forty-five (45) days after the date of the
 27 attorney general's request, a written statement that includes the
 28 following:
- 29 (1) An itemization of the components of the cost of producing
 30 the drug.
- 31 (2) If applicable, a statement identifying the circumstances
 32 and timing of any increase in:
- 33 (A) the costs of materials; or
 34 (B) manufacturing costs;
- 35 that contributed to the manufacturer's increase in the price of
 36 the essential off-patent or generic drug within the twelve (12)
 37 month period immediately preceding the effective date of the
 38 manufacturer's increase in the price of the essential off-patent
 39 or generic drug.
- 40 (3) An explanation of:
- 41 (A) the circumstances and timing of any expenditures
 42 made by the manufacturer to expand access to the drug;



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and

(B) any known and quantifiable improvement in public health associated with those expenditures.

(4) Any other information that the manufacturer determines to be relevant to a determination of whether the manufacturer's increase in the price of the essential off-patent or generic drug constitutes a violation of section 9 of this chapter.

(b) This section does not authorize the attorney general to require a manufacturer to disclose confidential and proprietary business plans or other confidential information without adequate protection of the information. The attorney general shall exercise all necessary caution to avoid disclosure of confidential information supplied under this section.

Sec. 12. (a) The attorney general has the following powers and duties with respect to price gouging in the sale of an essential off-patent or generic drug:

(1) To investigate notices received under section 10 of this chapter.

(2) To require a manufacturer or a wholesale distributor to produce any records or other documents that may be relevant to a determination of whether a violation of section 9 of this chapter has occurred. However, this subdivision does not authorize the attorney general to require a manufacturer or a wholesale distributor to disclose confidential and proprietary business plans or other confidential information without adequate protection of the information. The attorney general shall exercise all necessary caution to avoid disclosure of confidential information supplied under this subdivision.

(3) To institute an action under section 13 of this chapter or IC 24-5-0.5-4(c), or both.

(b) Upon petition by the attorney general, the circuit or superior court of Marion County may issue an order to compel:

(1) a manufacturer to provide a statement requested by the attorney general under section 11 of this chapter; or

(2) a manufacturer or a wholesale distributor to produce any records or other documents requested by the attorney general under subsection (a)(2);

subject to the attorney general's adequate protection of any confidential and proprietary business plans or other confidential information that may be included in the statement, records, or other documents requested.



1 **Sec. 13. (a) Subject to subsection (c) and section 14(d) of this**
 2 **chapter, if the attorney general determines, after an investigation**
 3 **under section 12(a)(1) of this chapter, that a manufacturer or**
 4 **wholesale distributor has engaged in price gouging in violation of**
 5 **section 9 of this chapter, the attorney general may bring an action**
 6 **in the circuit or superior court of Marion County seeking one (1)**
 7 **or more of the following:**

- 8 **(1) Injunctive relief, as appropriate.**
 9 **(2) Restitution for victims of price gouging.**
 10 **(3) The imposition of a civil penalty.**

11 **(b) After considering the evidence in an action filed under**
 12 **subsection (a), if the court finds that a manufacturer or a wholesale**
 13 **distributor has engaged in price gouging in violation of section 9 of**
 14 **this chapter, the court may issue an order to do any one (1) or**
 15 **more of the following:**

- 16 **(1) Restrain or enjoin the violation of section 9 of this chapter.**
 17 **(2) Restore to any consumer, including a third party payor,**
 18 **any money obtained by the manufacturer or wholesale**
 19 **distributor as a result of the violation of section 9 of this**
 20 **chapter.**

21 **(3) Require a manufacturer that has engaged in price gouging**
 22 **in the sale of an essential off-patent or generic drug in**
 23 **violation of section 9 of this chapter to make the drug**
 24 **available to participants in any:**

- 25 **(A) health plan; or**
 26 **(B) health program;**

27 **for a period of up to one (1) year at the price at which the**
 28 **drug was made available to the participants immediately**
 29 **before the effective date of the price increase constituting the**
 30 **violation of section 9 of this chapter.**

31 **(4) Impose a civil penalty of up to ten thousand dollars**
 32 **(\$10,000) for each violation of section 9 of this chapter.**

33 **(c) The attorney general may not bring an action under**
 34 **subsection (a) unless the attorney general has first provided the**
 35 **manufacturer or wholesale distributor an opportunity to meet with**
 36 **the attorney general to offer a justification for the increase in the**
 37 **price of the essential off-patent or generic drug at issue.**

38 **Sec. 14. (a) The requirements set forth in this chapter are not**
 39 **exclusive and do not relieve a person from complying with any**
 40 **other applicable:**

- 41 **(1) state or federal statute, rule, or regulation; or**
 42 **(2) order of:**



1 (A) a court;
2 (B) an administrative agency; or
3 (C) a regulatory body;
4 with jurisdiction.
5 (b) The remedies and penalties set forth in this chapter are
6 cumulative and in addition to any other applicable remedies and
7 penalties.
8 (c) Subject to subsection (d), a person that violates section 9 of
9 this chapter commits a deceptive act that is subject to the remedies
10 and penalties set forth in IC 24-5-0.5. An action by the attorney
11 general under IC 24-5-0.5-4(c) for a violation of section 9 of this
12 chapter may be brought in the circuit or superior court of Marion
13 County.
14 (d) An action brought under:
15 (1) this chapter; or
16 (2) IC 24-5-0.5;
17 that alleges price gouging in the sale of an essential off-patent or
18 generic drug in violation of section 9 of this chapter must be
19 brought within two (2) years after the effective date of the price
20 increase that is alleged to constitute price gouging.

