

Governor Phil Murphy

# Governor Murphy Activates Price Gouging Laws & Outlines Steps Taken by the Administration to Address National Baby Formula Shortage

05/17/2022

*Department of Health Releases Guidance for Families Affected by Shortage*

**TRENTON** – With New Jersey families facing difficulties obtaining baby formula due to the ongoing national shortage, Governor Phil Murphy signed Executive Order No. 296 today declaring a State of Emergency in order to activate State price gouging laws, consistent with President Biden's actions at the federal level. The order also coordinates relief efforts and enables State agencies to take any emergency measures necessary to protect families from issues arising from the baby formula shortage. The Department of Health also released guidance today for families facing challenges as a result of the shortage.

"We firmly believe that New Jersey is the best place in the nation to raise a family, and during this challenging time, we want to support our families with all of the resources at our disposal," **said Governor Murphy**. "I am signing today's executive order to enable our State to take any necessary steps to address this critical issue. To any retailer who may try to take advantage of vulnerable families during this shortage, let me be clear that this reprehensible action will not be tolerated. And to any New Jerseyan affected by this shortage, rest assured that my administration will do everything in our power to ensure families have access to the formula they need."

"Families need our support right now, as the national shortage of baby formula is presenting challenges for many parents who rely on this essential product," **said First Lady Tammy Murphy**. "New Jersey stands with our families and will work to provide equitable access to formula to ensure the health and well-being of infants throughout our state."

With the State of Emergency in effect, an excessive increase in the pricing of a merchant's supply of baby formula may be considered unlawful price gouging under the Consumer Fraud Act. The activation of these price gouging laws empowers the Division of Consumer Affairs (DCA) to investigate reports of potential price gouging and take action to curb such predatory practices. DCA will also continue to monitor the marketplace for other predatory and unlawful practices, including the sale of expired or unauthorized formula.

"We want businesses and consumers to know the price gouging law is now in effect to ensure baby formula is not excessively priced anywhere it is offered or sold in the state," **said Acting Attorney General Platkin**. "Individuals or merchants looking to make a profit by violating the law during the current state of emergency will face severe penalties."

Under the order, all State departments and agencies are also authorized to take steps – such as issuing waivers, orders, directives, or emergency regulations – to help ease supply chain issues in regards to formula, limit actions that would reduce the availability of formula, and draw on federal resources to accomplish these goals.

In addition to the executive order, the Governor has also spoken with the leaders of two major baby formula companies with a presence in New Jersey to emphasize the critical nature of the current situation, thank them for their commitment to increasing production capacity, and offer any assistance the State can offer during this time.

Understanding that low and moderate-income families are particularly vulnerable to challenges resulting from the national shortage of formula, the New Jersey Supplemental Nutrition Program for Women Infants and Children (WIC) – which falls under the Department of Health (DOH) – is taking steps to ensure equitable access to formula during this time.

WIC recently applied for a federal waiver that allows program participants to exchange their recalled formula at the store, like any other customer. Participants also have the flexibility to shop at multiple different stores if their regular store does not have the supply of formula they need.

In anticipation of certain formulas being more difficult to obtain than others, WIC recently instituted formula substitutions so that program participants can replace their special formulas with other types of formula, as dictated by their doctor.

The program is currently preparing to apply for two additional federal waivers the state is now eligible for – one of which would allow participants to receive a different brand of formula without needing a doctor's note. The other waiver would further allow WIC participants to receive different forms and sizes of formula than they normally receive.

"The Department of Health remains committed to ensuring that families participating in the Women Infants and Children (WIC) program can access the nutritional support and resources needed to care for their infants," **said Health Commissioner Judith Persichilli**. "Feeding your infant during this shortage can be stressful. If you are in need of emotional support, your local maternal health consortia can connect you with counseling services, virtual support groups, and other resources you may need."

For a copy of Executive Order No. 296, click here (<https://nj.gov/infobank/eo/056murphy/pdf/EO-296.pdf>).

For DOH's guidance for families impacted by the shortage, details on how to file a complaint with DCA about suspected price gouging or unfair business practices related to the sale of baby formula, and other information about the state's efforts to address the national baby formula shortage, visit [nj.gov/babyformula](https://nj.gov/babyformula) (<https://nj.gov/babyformula>).

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