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Senate File 3537 (Port)

Dear Chair Klein and Senate Commerce Committee Members,

The National Federation of Independent Business (NFIB) represents over 10,000 small businesses across Minnesota. Our mission is to promote and protect the right of our members to own, operate, and grow their businesses.

NFIB Minnesota appreciates the opportunity to comment on SF 3537, which we believe will have unintended consequences that negatively impact how small businesses provide pricing information to customers. The effect would be less information and less transparency for consumers to avoid conflict with this proposal.

While the desire for consumer transparency is laudable, we urge the committee to consider the following modifications to reduce the administrative burden and ensure that small businesses can transparently communicate pricing information to customers.

Credit Card Surcharges: We believe this bill would require a business to post a cash price and a surcharge price for each product or service instead of following the existing credit card surcharge notice statute (Minn. Stat. 325G.051). For a small convenience or grocery store, this is a major undertaking. Retailers update their prices frequently throughout the year – a time consuming but necessary task to keep pace with wholesale prices.

As an example, we believe customers who come to a store with only a credit card will claim (in this proposal's language) that the surcharge was not included in the displayed price and was not "reasonably avoidable" because the customer did not have cash.

Small businesses often face higher credit card processing fees than larger competitors, and surcharges are a tool of survival for many of them. Losing 3% to 4% of their revenue to processing fees would be catastrophic for most small retailers and service providers and raising prices – especially now – to compensate will alienate their customer base.

Rather than pursue a burdensome mandate that could reduce transparency, a better solution would mimic the existing credit card surcharge notice requirement. That obligation has existed since 1987 and last year's modernization enhanced transparency for consumers in both physical and online settings.

We recommend the following language to ensure those complying with the existing credit card surcharge notice requirement are not subject to liability under this proposal:

*For the purposes of this subdivision, mandatory fee does not include taxes imposed by a government entity **or a credit or charge card transaction surcharge imposed by a person that is in compliance with [section 325G.051](#)**.* (new language in bold)

Variable Pricing: Many service providers – e.g., tree trimming, snow removal, movers, etc. – offer variable pricing based on numerous factors: base charges, mileage, weight, space, equipment, required workers, hazardous substances, materials, and more.

Small businesses often post pricing schedules to give customers a sense of how much a product or service will cost, with the final price subject to the specifics of a job or order.

As an example, a Minnesota-based moving company advertises a set of hourly rates based on the number of movers, trucks, and trailers requested by the consumer. They also list a series of additional charges, some avoidable and some not. The schedule includes:

- minimum trip charge (based upon location and crew availability)
- variable pricing based on the number of hours, movers, trucks, and trailers used
- additional charges for storage, extra stops, bulky items, unwanted item removal, etc.

We believe this bill creates liability for companies that provide this type of information because the advertised hourly rate is not inclusive of all potential charges, even though the pricing schedule is clearly intended to be informative. Posting pricing schedules like this saves consumers and small businesses time and lets small business owners focus more on completing jobs and orders instead of responding to pricing inquiries.

This could be remedied without undermining the bill's goal by adding a new paragraph:

(x) Nothing in this subdivision shall prevent a person from advertising a schedule of prices, charges, or fees for informational purposes that is not intended to represent the price of a service to be paid by a consumer.

We urge the committee to seek workable solutions that advance consumer transparency without hindering small businesses.

Sincerely,



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