

Senator Klein from the Committee on Commerce and Consumer Protection, to which was referred

S.F. No. 3537: A bill for an act relating to consumer protection; defining deceptive trade practices to include the failure to disclose mandatory fees in advertising; amending Minnesota Statutes 2023 Supplement, section 325D.44, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2022, section 325D.44, is amended by adding a subdivision to read:

Subd. 1a. **Advertisements, displays, or offers.** (a) A person engages in a deceptive trade practice when, in the course of business, vocation, or occupation, the person advertises, displays, or offers a price for goods or services that does not include all mandatory fees or surcharges. If the person that disseminates an advertisement is independent of the advertiser, then that person shall not be liable for the content of the advertisement.

(b) For purposes of this subdivision, "mandatory fee" includes but is not limited to a fee or surcharge that:

(1) must be paid in order to purchase the goods or services being advertised;

(2) is not reasonably avoidable by the consumer; or

(3) a reasonable consumer would expect to be included in the purchase of the goods or services being advertised.

(c) For the purposes of this subdivision, mandatory fee does not include:

(1) taxes imposed by a government entity on the sale, use, purchase, receipt, or delivery of the goods or services; or

(2) fees related to the purchase or lease of a motor vehicle which are authorized by Minnesota Statutes.

(d) A delivery platform must comply with the following requirements:

(1) at the point when a consumer views and selects either a vendor or items for purchase, a delivery platform must display in a clear and conspicuous manner that an additional flat fee or percentage will be charged. The disclosure must include the additional fee or percentage amount; and

(2) after a consumer selects items for purchase, but prior to checkout, a delivery platform must display a subtotal page that itemizes the price of the menu items and the additional fee that will be included in the total cost.

(d) A person may charge a reasonable postage or shipping fee that will be actually incurred by a consumer who has purchased a good that requires shipping.

(e) Nothing in this subdivision shall prevent a person from offering goods or services at a discounted price from the advertised, displayed, or offered price.

(f) A person offering goods or services in an auction where consumers can place bids on the goods or services and the total cost is indeterminable must disclose in a clear and conspicuous manner any mandatory fees associated with the transaction and that the total cost of the goods or services may vary.

(g) A person offering services, where the total cost is determined by consumer selections and preferences, or relating to distance or time, must disclose in a clear and conspicuous manner the factors that will determine the total price, any mandatory fees associated with the transaction, and that the total cost of the services may vary.

(h) A food service establishment shall be deemed compliant with this section if, in every offer or advertisement for the purchase or lease of a good or service that includes pricing information, the total price of the good or service being offered or advertised includes a clear and conspicuous disclosure of the percentage of any automatic and mandatory gratuities to be charged.

(i) This subdivision does not apply to the following:

(1) any industry where federal law or other state law regulates pricing disclosures;

(2) any fees, surcharges, or other costs associated with settlement services, as defined in the Real Estate Settlement Procedures Act under United States Code, title 12, section 2602(3);

(3) any business or its affiliate where either the business or the affiliate is regulated by the Minnesota Public Utilities Commission or the Federal Communications Commission;
or

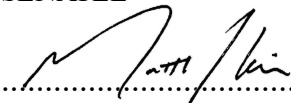
(4) any industry where prices are regulated by a governmental authority or corporate brand that requires a disclosure of a fee.

EFFECTIVE DATE. This section is effective August 1, 2025."

And when so amended the bill do pass. Amendments adopted. Report adopted.

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(Committee Chair)

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March 22, 2024.....

(Date of Committee recommendation)