



Rep. Bob Morgan

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LRB103 36169 SPS 72353 a

1 AMENDMENT TO HOUSE BILL 4629

2 AMENDMENT NO. _____. Amend House Bill 4629, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the Junk
6 Fee Ban Act.

7 Section 5. Definitions.

8 "Ancillary good or service" means any additional
9 merchandise offered to a consumer as part of the same
10 transaction.

11 "Advertisement" means a notice in any printed material,
12 television, Internet, email, text message, mobile or computer
13 application, or any other similar physical, electronic, or
14 digital communication regarding the sale of a consumer good or
15 service.

16 "Bar" or "tavern" means an establishment that is devoted

1 to the serving of alcoholic beverages for consumption by
2 guests on the premises and that derives no more than 50% of its
3 gross revenue from the sale of food consumed on the premises,
4 including, but not limited to, bars, taverns, nightclubs,
5 cocktail lounges, adult entertainment facilities, and
6 cabarets.

7 "Consumer goods or services" means goods and services that
8 are used or bought for use primarily for personal, family, or
9 household purposes.

10 "Display price" means the displayed price of a consumer
11 good or service provided to the consumer within the retail
12 mercantile establishment's physical location or Internet,
13 email, text message, mobile or computer application, or any
14 other similar physical, electronic, or digital communication.

15 "Delivery fees" means any fee charged to a consumer for
16 providing delivery of consumer goods, food, or beverages.

17 "Food service establishment" means a bar, tavern, or
18 restaurant.

19 "Interchange fee" means a fee that a financial
20 institution, payment processor, credit card payment network,
21 or other person or entity charges a person, retail mercantile
22 establishment, or food service establishment when a consumer
23 uses a card, note, plate, coupon book, credit, or similar
24 device to purchase a consumer product or service.

25 "Place of short-term lodging" means a hotel, motel, inn,
26 short-term rental, or other place of lodging that advertises

1 at a price that is a nightly, hourly, or weekly rate.

2 "Person" means an individual, natural person, public or
3 private corporation, government, partnership, unincorporated
4 association, or other entity. "Person" does not include food
5 service establishment, or retail mercantile establishment.

6 "Pricing information" means any information relating to an
7 amount a consumer may pay as part of a transaction.

8 "Restaurant" means any business that is primarily engaged
9 in the sale of ready-to-eat food for immediate consumption.
10 For the purpose of this definition, "primarily engaged" means
11 having sales of ready-to-eat food for immediate consumption
12 comprising at least 51% of the total sales, excluding the sale
13 of liquor.

14 "Retail mercantile establishment" means a business that
15 provides consumer goods and services to consumers at retail
16 and generates occupation or use tax revenue. "Retail
17 mercantile establishment" does not include a food service
18 establishment.

19 "Shipping charges" means the fees or charges that
20 reasonably reflect the amount to be incurred to send goods to a
21 consumer through the mail, including private mail services.

22 "Total price" means the maximum total of all fees or
23 charges a consumer shall pay for a good or service and any
24 mandatory ancillary good or service. "Total price" does not
25 include shipping charges or taxes, gratuities, interchange
26 fees, discounts regulated pursuant to the Sale Price Ad Act,

1 or fees collected and passed on to a quasi-governmental
2 entity, including any assessment fees associated with a
3 government created special district.

4 Section 10. Hidden and misleading fees. It is a violation
5 of this Act for a person to:

6 (1) offer, display, or advertise an amount a consumer
7 may pay for merchandise without clearly and conspicuously
8 disclosing the total price;

9 (2) fail, in any offer, display, or advertisement that
10 contains an amount a consumer may pay, to display the
11 total price more prominently than any other pricing
12 information;

13 (3) misrepresent the nature and purpose of any amount
14 a consumer may pay, including the ability to refund the
15 fees and the identity of any merchandise for which fees
16 are charged;

17 (4) fail to disclose clearly and conspicuously before
18 the consumer consents to pay, the nature and purpose of
19 any amount a consumer may pay that is excluded from the
20 total price, including the ability to refund the fees and
21 the identity of any merchandise for which fees are
22 charged; or

23 (5) offer, display, or advertise, including through
24 direct offerings, third-party distribution, or metasearch
25 referrals, a total price for a place of short-term lodging

1 that does not include all required fees.

2 Section 15. Retail mercantile establishments; disclosure
3 of total price. A retail mercantile establishment is not
4 required to provide the total price in the display price of a
5 consumer good or service. A retail mercantile establishment
6 shall provide notice of a consumer fee or charge prior to the
7 purchase of the food or beverages. A retail mercantile
8 establishment may use any reasonable method available to
9 provide notice of the total price, including, but not limited
10 to, the following commercial channels:

11 (1) on a screen, monitor, or other display at the
12 point of sale;

13 (2) website, Internet, email, text message, mobile or
14 computer application, or any other electronic or digital
15 communication;

16 (3) in-store consumer promotions, advertisement, or
17 any other similar display;

18 (4) membership, loyalty, or reward program or any
19 other similar program; or

20 (5) any other reasonable means available to the retail
21 mercantile establishment.

22 Section 20. Food service establishments; disclosure of
23 total price. A food service establishment is not required to
24 provide the total price within the display price of food or

1 beverages. A food service establishment shall provide notice
2 of a consumer fee or charge prior to the purchase of the food
3 or beverages. A food service establishment may use any
4 reasonable method available to provide notice of the total
5 price, including, but not limited to, the following commercial
6 channels:

7 (1) at the establishment's premises on a menu, on a
8 tabletop or countertop display, or through posted signage;

9 (2) on the establishment's website where food and
10 beverage prices are advertised;

11 (3) on a screen, monitor, or other interactive
12 display;

13 (4) email, text message, mobile or computer
14 application, or any other electronic or digital
15 communication;

16 (5) in-store consumer promotions, advertisement, or
17 any other similar display;

18 (6) membership, loyalty, or reward program or any
19 other similar program; or

20 (7) any other reasonable means available to the food
21 service establishment.

22 Section 25. Disclosure of delivery fees.

23 (a) For consumer goods or services sold by a food service
24 establishment or retail mercantile establishment that will be
25 delivered by a third-party delivery service, the food service

1 establishment or retail mercantile establishment shall require
2 by contract with the third-party delivery service that the
3 third-party delivery service shall comply with Section 10.

4 (b) A food service establishment or retail mercantile
5 establishment is not responsible for violations of Section 10
6 solely as a result of a third-party delivery service failing
7 to comply with Section 10.

8 Section 30. Limitations.

9 (a) Nothing in this Act shall be construed to limit,
10 regulate, or prohibit a retail mercantile establishment or
11 food establishment's ability to charge consumers fees or
12 similar charges associated with consumer goods, food,
13 beverages, or services.

14 (b) Nothing in this Act shall be construed to limit,
15 regulate, or prohibit a retail mercantile establishment's or
16 food establishment's ability to set prices for consumer goods
17 or services.

18 (c) The requirements of this Act do not apply to consumer
19 purchases made at wholesale clubs that sell consumer goods and
20 services through a membership model.

21 (d) Nothing in this Act alters any federal law or
22 regulation.

23 (e) Nothing in this Act shall infringe or impede on any
24 right or remedy available under State law or rule.

1 Section 35. Enforcement under the Consumer Fraud and
2 Deceptive Business Practices Act. The Attorney General may
3 enforce violations of this Act as an unlawful practice under
4 the Consumer Fraud and Deceptive Business Practices Act. All
5 remedies, penalties, and authority granted to the Attorney
6 General by that Act shall be available to the Attorney General
7 for the enforcement of this Act.

8 Section 40. Home rule. The disclosure of the total price,
9 as defined in this Act, of a consumer good or service is an
10 exclusive power and function of the State. A home rule unit may
11 not regulate the disclosure of total prices by retail
12 mercantile establishments or food service establishments. This
13 Section is a denial and limitation of home rule powers and
14 functions under subsection (h) of Section 6 of Article VII of
15 the Illinois Constitution."