



Sen. Omar Aquino

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1 AMENDMENT TO SENATE BILL 3331

2 AMENDMENT NO. _____. Amend Senate Bill 3331, 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, food service establishment, or physical fitness
23 center when a consumer uses a card, note, plate, coupon book,
24 credit, or similar device to purchase a consumer product or
25 service.

26 "Physical fitness center" means any person or business

1 entity offering physical fitness services to the public.

2 "Physical fitness services" includes instruction, training
3 or assistance in physical culture, bodybuilding, exercising,
4 weight reducing, figure development, judo, karate,
5 self-defense training, or any similar activity, the use of the
6 facilities of a physical fitness center for any such
7 activities, or membership in any group formed by a physical
8 fitness center for any such purposes.

9 "Place of short-term lodging" means a hotel, motel, inn,
10 short-term rental, or other place of lodging that advertises
11 at a price that is a nightly, hourly, or weekly rate.

12 "Person" means an individual, natural person, public or
13 private corporation, government, partnership, unincorporated
14 association, or other entity. "Person" does not include food
15 service establishment, retail mercantile establishment, or
16 physical fitness center.

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

19 "Restaurant" means any business that is primarily engaged
20 in the sale of ready-to-eat food for immediate consumption.
21 For the purpose of this definition, "primarily engaged" means
22 having sales of ready-to-eat food for immediate consumption
23 comprising at least 51% of the total sales, excluding the sale
24 of liquor.

25 "Retail mercantile establishment" means a business that
26 provides consumer goods and services to consumers at retail

1 and generates occupation or use tax revenue. "Retail
2 mercantile establishment" does not include a food service
3 establishment or physical fitness center.

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

7 "Total price" means the maximum total of all fees or
8 charges a consumer shall pay for a good or service and any
9 mandatory ancillary good or service. "Total price" does not
10 include shipping charges or taxes, gratuities, interchange
11 fees, discounts regulated pursuant to the Sale Price Ad Act,
12 or fees collected and passed on to a quasi-governmental
13 entity, including any assessment fees associated with a
14 government created special district.

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

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

20 (2) fail, in any offer, display, or advertisement that
21 contains an amount a consumer may pay, to display the
22 total price more prominently than any other pricing
23 information;

24 (3) misrepresent the nature and purpose of any amount
25 a consumer may pay, including the ability to refund the

1 fees and the identity of any merchandise for which fees
2 are charged;

3 (4) fail to disclose clearly and conspicuously before
4 the consumer consents to pay, the nature and purpose of
5 any amount a consumer may pay that is excluded from the
6 total price, including the ability to refund the fees and
7 the identity of any merchandise for which fees are
8 charged; or

9 (5) offer, display, or advertise, including through
10 direct offerings, third-party distribution, or metasearch
11 referrals, a total price for a place of short-term lodging
12 that does not include all required fees.

13 Section 15. Retail advertisement of consumer goods and
14 services; disclosure of total price. If a retail mercantile
15 establishment or food service establishment that advertises
16 consumer goods or service are for sale and that advertisement
17 states the total price of the consumer goods or service, the
18 stated total price shall include all fees or charges that
19 apply to the service or the consumer good or the advertisement
20 shall state clearly that additional fees or charges may be
21 added to the total price.

22 Section 20. Retail mercantile establishments; disclosure
23 of total price. A retail mercantile establishment is not
24 required to provide the total price in the display price of a

1 consumer good or service. A retail mercantile establishment
2 may use any reasonable method available to provide notice of
3 the total price, including, but not limited to, the following
4 commercial channels:

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

7 (2) website, Internet, email, text message, mobile or
8 computer application, or any other electronic or digital
9 communication;

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

12 (4) membership, loyalty, or reward program or any
13 other similar program; or

14 (5) any other reasonable means available to the retail
15 mercantile establishment.

16 Section 25. Food service establishments; disclosure of
17 total price. A food service establishment is not required to
18 provide the total price within the display price of food or
19 beverages. A food service establishment shall provide notice
20 of a consumer fee or charge prior to the purchase of the food
21 or beverages. A food service establishment may use any
22 reasonable method available to provide notice of the total
23 price, including, but not limited to, the following commercial
24 channels:

25 (1) at the establishment's premises on a menu, on a

- 1 tabletop or countertop display, or through posted signage;
- 2 (2) on the establishment's website where food and
- 3 beverage prices are advertised;
- 4 (3) on a screen, monitor, or other interactive
- 5 display;
- 6 (4) email, text message, mobile or computer
- 7 application, or any other electronic or digital
- 8 communication;
- 9 (5) in-store consumer promotions, advertisement, or
- 10 any other similar display;
- 11 (6) membership, loyalty, or reward program or any
- 12 other similar program; or
- 13 (7) any other reasonable means available to the food
- 14 service establishment.

15 Section 30. Disclosure of delivery fees.

16 (a) A food service establishment or retail mercantile

17 establishment shall provide notice of any delivery fee charged

18 to a consumer prior to the acceptance of the delivery. This

19 notice shall be provided pursuant to any reasonable method

20 provided in Section 20 or 25.

21 (b) A food service establishment or retail mercantile

22 establishment is not responsible for providing notice to

23 consumers of delivery fees or other fees charged by a

24 third-party to the consumer or by a third-party to the food

25 service establishment or a retail mercantile establishment.

1 Section 35. Physical fitness services; disclosure of total
2 payment obligations. Every contract for physical fitness
3 services shall be in writing and shall be subject to the
4 Physical Fitness Services Act. Every contract for physical
5 fitness services shall set forth the customer's total payment
6 obligation for physical fitness services to be received under
7 the contract.

8 Section 40. 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 require retail mercantile
15 establishment or food establishment to reimburse any fee or
16 charge unless the fee or charge is found to be illegal or is
17 illegally applied, as determined by a court of law.

18 (c) Nothing in this Act shall be construed to limit,
19 regulate, or prohibit a retail mercantile establishment's or
20 food establishment's ability to set prices for consumer goods
21 or services.

22 (d) The advertising and display of motor fuel by a
23 retailer as defined by the Motor Fuel and Petroleum Standards
24 Act is subject to the requirements provided in subsection (e)

1 of Section 17-5.7 of the Criminal Code of 2012.

2 (e) The disclosure of discounted prices by a retail
3 mercantile establishment are subject to the requirements of
4 the Sale Price Ad Act.

5 (f) The requirements of this Act do not apply to consumer
6 purchases made at wholesale clubs that sell consumer goods and
7 services through a membership model.

8 (g) Nothing in this Act alters any federal law.

9 (h) Nothing in this Act shall infringe or impede on any
10 right or remedy available under State law.

11 Section 45. Enforcement under the Consumer Fraud and
12 Deceptive Business Practices Act. The Attorney General may
13 enforce violations of this Act as an unlawful practice under
14 the Consumer Fraud and Deceptive Business Practices Act. All
15 remedies, penalties, and authority granted to the Attorney
16 General by that Act shall be available to the Attorney General
17 for the enforcement of this Act.

18 Section 50. Home rule. The disclosure of the total price,
19 as defined in this Act, of a consumer good or service is an
20 exclusive power and function of the State. A home rule unit may
21 not regulate the disclosure of total prices by retail
22 mercantile establishments or food service establishments. This
23 Section is a denial and limitation of home rule powers and
24 functions under subsection (h) of Section 6 of Article VII of

1 the Illinois Constitution."