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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Legislative Budget
Office

S.B. 336
136th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Blessing

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SUMMARY

- Requires suppliers to advertise or display the total price of goods or services, which include all mandatory fees or surcharges; suppliers of both goods and services can display or advertise the total prices of the goods separately from the total price or rate charged for providing the service.
- Describes how various entities such as, for example, restaurants or hotels, broadband service providers, and food delivery platforms can be compliant with the bill's provisions.
- Provides that reducing the total price that was previously advertised or displayed and displaying a promotion or discount, including an offer to waive one or more mandatory fees, does not violate the bill's provisions.
- Exempts certain fees, surcharges, and costs such as, for example, those authorized by law related to purchasing or leasing a motor vehicle or by an electric utility, natural gas company, or telecommunication service provider, from the bill's requirements.
- Requires a food delivery platform to include a clear and conspicuous disclosure of any mandatory fees or surcharges when a customer views and selects a vendor, and display, prior to checkout, a subtotal page which itemizes the price and mandatory fees or surcharges included in the total cost.
- Provides that the bill's provisions do not prohibit a food delivery platform from: reducing the total costs that were previously advertised or displayed, displaying a promotion or discount (including an offer to waive mandatory fees), and advertising or displaying a price for goods or services in compliance with state or federal laws.
- Declares a violation of the bill's provisions is an unfair or deceptive act or practice under Ohio's Consumers Sales Practices Act (CSPA), granting the Attorney General all powers and remedies available to enforce the CSPA to enforce the bill's provisions.

DETAILED ANALYSIS

Clear and conspicuous display of price requirements

The bill prohibits a supplier,¹ in connection with a consumer transaction, from advertising or displaying a price for goods or services without clearly and conspicuously displaying the total price, including all mandatory fees or surcharges. Under the bill, “clearly and conspicuously” means in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks, in a manner that clearly calls attention to the language; for audio disclosures, the volume and cadence must be sufficient to be readily audible and understandable.

The bill specifies that any supplier that provides both a good and a service to consumers may comply with the prohibition by displaying or advertising the total price of the good separately from the total price or rate charged for providing the service.

The bill also defines the following terms:

- “Consumer transaction,” under current law as applied by the bill, means a sale, lease, assignment, award by chance, or other transfer of an item of goods, a service, a franchise, or an intangible, to an individual for purposes that are primarily personal, family, or household, or solicitation to supply any of these things, with certain exceptions;
- “Mandatory fees or surcharges” includes any additional fee or surcharge that must be paid in order to purchase the good or service being advertised, but excludes:
 - Taxes or fees imposed on the consumer by a government or government-approved entity or assessment fees of a government-created special district or program paid to the government or government-approved entity;
 - Reasonable postage or shipping fees.²

Compliance

The bill provides for how certain entities can be compliant with the display-of-price requirement.

Auctions

A supplier offering goods or services in an auction is compliant if the supplier clearly and conspicuously discloses any mandatory fees associated with the transaction and that the total cost of such goods or services may vary. Under the bill, “auction” means the sale of goods or real estate by means of exchanges between an auctioneer and members of the audience, the exchanges consisting of a series of invitations for offers made by the auctioneer, offers made by

¹ The bill cross references R.C. 1345.15 (enacted by the bill) for the definition of “supplier.” But, no definition, just the term, appears in that section. It is possible the bill means to cross reference the current law definition of “supplier” in R.C. 1345.01. A corrective amendment may be needed to address this.

² R.C. 1345.15(D), (E), and (J), and 1345.16(A); R.C. 1345.01(A), not in the bill.

members of the audience, and acceptance by the auctioneer of the highest or most favorable offer.³

Restaurants or hotels

A restaurant or hotel is compliant if it includes a clear and conspicuous disclosure of the percentage of any automatic and mandatory gratuities charged in every offer or advertisement for the purchase of a good or service that includes pricing information.

“Hotel,” as defined under current Ohio Hotel law and applied by the bill, means a transient hotel, extended stay hotel, or residential hotel and generally includes any structure consisting of one or more buildings containing any combination of more than five guestrooms that are each approved by the building code official having jurisdiction and the state fire marshal as meeting the requirements for transient sleeping rooms or extended stay temporary residence dwelling units.

“Restaurant,” as defined by the bill, means:

- Any place where food is prepared for service to the public on or off the premises or any place where food is served, including lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs, kitchen facilities of hospitals and nursing homes, dining accommodations of public and private schools and institutions of higher education, and kitchen areas of local correctional facilities;
- Any place or operation that prepares or stores food for distribution to persons of the same business operation or of a related business operation for service to the public, including operations preparing or storing food for catering services, push cart operations, hot dog stands, and other mobile points of service, including, mobile points of service to which food is distributed by such a place or operation unless the point of service and of consumption is in a private residence;
- Any place or operation that prepares or stores food for distribution to child or adult daycare centers or schools, regardless of whether the receiving daycare center or school holds a restaurant license.

Restaurant excludes any place manufacturing packaged or canned foods that are distributed to grocery stores or other similar retailers for sale to the public.⁴

Price-variable supplier

A price-variable supplier is compliant if the supplier clearly and conspicuously discloses all the factors determining final price; any mandatory fees or surcharges associated with the transaction; and that the total cost of services may vary.

³ R.C. 1345.15(A) and 1345.16(B).

⁴ R.C. 1345.15(I) and (N) and 1345.16(C); R.C. 3731.01(A)(1), not in the bill.

A “price-variable supplier” is defined by the bill as a supplier that offers services, the total price of which is determined by consumer selections or preferences or dependent on distance or time.⁵

Entertainment providers

The bill deems the following entities compliant if those entities comply with applicable federal law, as follows:

- A provider of broadband internet access service on its own or as part of a bundle that complies with federal broadband consumer requirements (47 Code of Federal Regulations (C.F.R.) 8.2).
- A cable operator that complies with the pricing requirements stated in federal law (47 United States Code 552).
- A direct broadcast satellite provider that complies with the pricing requirements stated in federal law (47 C.F.R. 76.310).
- A provider of live event tickets that complies with the provisions of federal law (16 C.F.R. 464) relating to live event tickets.⁶

Food delivery platforms

A food delivery platform is deemed compliant if it does the following:

- Includes a clear and conspicuous disclosure of any mandatory fees or surcharges at the point when a consumer views and selects a vendor or item for purchase;
- Displays a subtotal page that itemizes the price of the selected items for purchase and any mandatory fees or surcharges included in the total costs prior to checkout.

A “food delivery platform,” under the bill, is a person that operates a mobile application or other online service to act as an intermediary between consumers and multiple restaurants to submit food orders on behalf of a consumer to a participating restaurant and to arrange the order’s delivery from the restaurant to the consumer.

The bill provides that the above requirements must not be construed to prohibit a food delivery platform from:

- Reducing the total cost that was previously advertised or displayed;
- Displaying a promotion or discount, including an offer to waive one or more mandatory fees;
- Advertising or displaying a price for goods and services in compliance with applicable state or federal laws.

⁵ R.C. 1345.15(M) and 1345.16(D).

⁶ R.C. 1345.15(G) and 1345.16(E) to (H).

Platforms that are price-variable suppliers

The bill provides that a food delivery platform that is a price-variable supplier complies with the bill's food delivery platform provisions if the supplier includes a disclosure at the point when a consumer selects an item for purchase that includes:

- The factors determining the final prices;
- Any mandatory fees or surcharges associated with the transaction;
- That the total cost of services may vary.⁷

Exemptions

The bill declares that a supplier does not violate the bill's display-of-price requirements if the supplier:

- Reduces the total price that was previously advertised or displayed;
- Displays a promotion or discount, including an offer to waive one or more mandatory fees;
- Advertises or displays a price for goods and services in compliance with applicable state or federal laws.⁸

Bill construction

The bill provides that the bill's display-of-price requirements must not be construed to apply to any of the following:

- Fees authorized by law related to the purchase or lease of a motor vehicle that are charged by a motor vehicle dealer (includes any new motor vehicle dealer, any motor vehicle leasing dealer, any adaptive mobility dealer, and any used motor vehicle dealer, all defined under Ohio's Motor Vehicle Dealers, Auction Owners, and Salespersons Law);
- Fees, surcharges, or costs charged by any electric utility (defined in current law, generally, as an electric light company that has a certified territory and is engaged on a for-profit basis in the business of supplying at least a noncompetitive retail electric service in Ohio), natural gas company (generally, a company engaged in the business of supplying natural gas for lighting, power, or heating purposes to Ohio consumers and is a public utility under Ohio's Public Utility Law), or telecommunications service provider (a provider of telecommunications service, which is defined under current law as the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used);
- Any fees, surcharges, or other costs associated with settlement services (as defined under federal law as any service provided in connection with a real estate settlement including,

⁷ R.C. 1345.15(H), 1345.16(I), and 1345.17.

⁸ R.C. 1345.161(A).

for example, title searches, title examinations, and the handling of the processing, and closing of settlement), provided that such associated costs do not include real estate broker commissions and fees;

- The provision of air transportation by air carriers;
- In a way that is expressly preempted by federal law.⁹

Enforcement

Violations of the bill's provisions are declared an unfair or deceptive act or practice under Ohio's Consumer Sales Practices Act (CSPA) and provides that the Attorney General has the same powers to enforce and remedy the bill's provisions as under current law to enforce and remedy violations of the CSPA. This includes, for example, an action for declaratory judgement, temporary restraining order, preliminary or permanent injunction, or a motion to impose a civil penalty not exceeding \$5,000 for each day's violation of any such restraining order or injunction.¹⁰

HISTORY

Action	Date
Introduced	12-23-25

ANSB0336IN-136/ar

⁹ R.C. 1345.15(F), (K), (L), (O), and (Q) and 1345.161(B); R.C. 4517.01, 4905.02, 4905.03, 4927.01, 4928.01, 4929.01, and 12 United States Code 2602, not in the bill.

¹⁰ R.C. 1345.162; R.C. 1345.01 to 1345.13, not in the bill.