



Rep. Bob Morgan

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10400HB0228ham001

LRB104 04051 SPS 35327 a

1 AMENDMENT TO HOUSE BILL 228

2 AMENDMENT NO. _____. Amend House Bill 228 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by adding Section 2MMMM as follows:

6 (815 ILCS 505/2MMMM new)

7 Sec. 2MMMM. Hidden and misleading fees.

8 (a) For purposes of this Section:

9 "Financial institution" means any person or entity who is
10 certified, permitted, approved, chartered, registered,
11 licensed, or otherwise authorized to engage in any profession,
12 trade, occupation, or industry by the Division of Banking or
13 the Division of Financial Institutions of the Department of
14 Financial and Professional Regulation.

15 "Gratuities" means compensation, money, or tip paid by a
16 consumer in excess of the amount required for the purchase of

1 goods or services, the total amount of which is received by the
2 employees providing the goods or services, and none of which
3 is retained by the business that employs the employees.

4 "Mandatory fee or surcharge" includes, but is not limited
5 to, a fee or surcharge that:

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

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

9 (3) a person would reasonably expect to be included in
10 the purchase of the goods or services being advertised.

11 "Mandatory fee or surcharge" does not include any taxes or
12 fees imposed by a government entity that are required by law to
13 be collected from the consumer on the sale, use, purchase,
14 receipt, or delivery of the goods or services.

15 (b) It is an unlawful practice within the meaning of this
16 Act for a person to advertise, display, or offer a price for
17 goods or services that does not include all mandatory fees or
18 surcharges.

19 (c) A food delivery platform is compliant with this
20 Section if the platform:

21 (1) clearly and conspicuously discloses, on any page
22 on the platform that references, expressly or by
23 implication:

24 (A) the specific cost to place a delivery order at
25 a particular restaurant;

26 (B) the amount or, if calculated on a percentage

1 basis, the percentage of any additional fee or fees
2 that a consumer must incur at that restaurant to place
3 a delivery order, excluding only fees or charges
4 imposed by a federal, State, tribal, or unit of local
5 government that is required by law to be collected
6 from the consumer on the transaction; and

7 (C) any optional gratuities;

8 (2) clearly and conspicuously discloses, any time a
9 consumer has selected any items on the platform and those
10 selections are displayed, all fees the consumer will incur
11 based on those selections, including the nature or purpose
12 of each fee, the amount of each fee, and the total amount a
13 consumer must pay based on the selections; and

14 (3) after a consumer selects items for purchase, but
15 prior to checkout, a delivery platform must display a
16 subtotal page that itemizes the price of the menu items
17 and any additional fees that are included in the total
18 cost.

19 (d) Nothing in this Section prohibits a person from
20 charging a reasonable postage or shipping fee that is actually
21 incurred by the person to ship goods to a consumer.

22 (e) Nothing in this Section prohibits a person from
23 offering goods or services at a discounted price from the
24 advertised, displayed, or offered price.

25 (f) A person offering goods or services in an auction
26 where consumers can place bids on the goods or services and the

1 total cost is indeterminable is compliant with this Section if
2 the person discloses in a clear and conspicuous manner any
3 mandatory fees associated with the transaction and that the
4 total cost of the goods or services may vary.

5 (g) A person offering services where the total cost of a
6 service is determined by consumer selections and preferences,
7 or where the total cost of the service relates to distance or
8 time, is compliant with this Section if the person discloses
9 in a clear and conspicuous manner: (i) the factors that
10 determine the total price; (ii) any mandatory fees associated
11 with the transaction; and (iii) that the total cost of the
12 services may vary.

13 (h) A food or beverage service establishment, including a
14 hotel, is compliant with this Section with respect to
15 automatic and mandatory gratuities charged if, in every offer
16 or advertisement for the purchase of a good or service that
17 includes pricing information, the total price of the good or
18 service being offered or advertised includes a clear and
19 conspicuous disclosure of the percentage of any automatic and
20 mandatory gratuities charged. All other mandatory fees and
21 surcharges must be included in the price advertised, displayed
22 or offered as required by subsection (b).

23 (i) The following entities are compliant with this
24 Section:

25 (1) a provider of broadband Internet access service,
26 on its own or as part of a bundle, that complies with the

1 broadband consumer label requirements set forth in 47 CFR
2 8.1(a) and its implementing orders;

3 (2) a cable operator and direct broadcast satellite
4 provider that complies with the pricing requirements set
5 forth in 47 CFR 76.310 and its implementing orders; and

6 (3) a telecommunication company that complies with the
7 pricing requirements set forth in 47 CFR 64.2401 and its
8 implementing orders.

9 (j) A person is compliant with this Section for the
10 purposes of any transactions covered by 47 U.S.C. 552 if the
11 person is compliant with that Act.

12 (k) A financial entity that is required to provide
13 disclosures in compliance with any of the following federal or
14 State laws with respect to a financial transaction is
15 compliant with this Section for purposes of the transactions:

16 (1) the Truth in Savings Act, as amended (12 U.S.C.
17 Sec. 4301 et seq.);

18 (2) the Electronic Fund Transfer Act, as amended (15
19 U.S.C. Sec. 1693 et seq.);

20 (3) Section 19 of the Federal Reserve Act, as amended
21 (12 U.S.C. Sec. 461 et seq.);

22 (4) the Truth in Lending Act, as amended (15 U.S.C.
23 Sec. 1601 et seq.);

24 (5) the Real Estate Settlement Procedures Act, as
25 amended (12 U.S.C. Sec. 2601 et seq.);

26 (6) the Home Ownership and Equity Protection Act (15

1 U.S.C. Sec. 1639);

2 (7) the Consumer Installment Loan Act;

3 (8) the Consumer Legal Funding Act;

4 (9) the Interest Act;

5 (10) the Motor Vehicle Retail Installment Sales Act;

6 (11) the Retail Installment Sales Act;

7 (12) the Payday Loan Reform Act;

8 (13) the High Risk Home Loan Act;

9 (14) the Pawnbroker Regulation Act of 2023;

10 (15) the Residential Mortgage Licensing Act of 1987;

11 (16) the Residential Real Property Disclosure Act;

12 (17) the Student Loan Servicing Rights Act; and

13 (18) any rule or regulation adopted under any State or
14 federal law listed in this subsection.

15 (l) This Act does not apply to an air carrier that provides
16 air transportation, as those terms are used in 49 U.S.C.
17 41713.

18 (m) The provisions of Section 10a do not apply to a
19 violation of this Section."