



Sen. Omar Aquino

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LRB103 38879 SPS 72403 a

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, 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."