

STATE OF NEW YORK

7783

2023-2024 Regular Sessions

IN SENATE

December 1, 2023

Introduced by Sens. GIANARIS, SKOUFIS, HOYLMAN-SIGAL, MAY, SEPULVEDA --
read twice and ordered printed, and when printed to be committed to
the Committee on Rules

AN ACT to amend the general business law, in relation to clear and
conspicuous pricing practices regarding mandatory junk fees

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York junk fee prevention act".

3 § 2. The general business law is amended by adding a new section 396-
4 yy to read as follows:

5 § 396-yy. Junk fee prevention. 1. Definitions. For the purposes of
6 this section, the following terms shall have the following meanings:

7 (a) (i) "Mandatory fee" includes:

8 (A) any fee or surcharge that a consumer is required to pay to
9 purchase or lease any good or service being advertised;

10 (B) any fee or surcharge that is not reasonably avoidable to complete
11 the purchase or lease of any good or service being advertised;

12 (C) any fee or surcharge for any good or service that a reasonable
13 consumer would expect to be included with the purchase or lease of the
14 good or service being advertised; and

15 (D) any other fee or surcharge determined appropriate by the attorney
16 general.

17 (ii) "Mandatory fee" shall not include:

18 (A) any tax, duty, or custom levied by any local, state, federal, or
19 other governmental entity; and

20 (B) any fee covering the cost of delivering goods, the amount of which
21 is based upon the delivery method selected by the consumer, provided
22 that such amount is disclosed to the consumer prior to accepting
23 payment.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (b) "Total price" shall mean the full price that a consumer must pay,
2 including any and all mandatory fees associated with the transaction, in
3 order to complete the purchase or lease of a good or service.

4 2. Clear and conspicuous pricing. Any person, firm, partnership, asso-
5 ciation, or corporation doing business in the state, or any agent or
6 employee thereof, shall clearly and conspicuously display, in every
7 offer and advertisement for the sale or lease of a good or service, the
8 total price of the good or service being offered or advertised.

9 3. Enforcement. (a) For every violation of this section, an applica-
10 tion may be made by the attorney general in a court of competent juris-
11 isdiction to issue an injunction, and upon notice to the defendant of not
12 less than five days, to enjoin and restrain the continuance of such
13 violation. If it shall appear to the satisfaction of the court that the
14 defendant is, in fact, in violation of this section, an injunction may
15 be issued by such court, enjoining and restraining such action or
16 violation, without requiring proof that any person has, in fact, been
17 misled or deceived or otherwise damaged thereby.

18 (b) The attorney general, or any person adversely affected by a
19 violation of this section, may bring an action against the person or
20 entity in violation of this section to recover the greater of:

21 (i) actual damages;

22 (ii) up to five hundred dollars for each unintentional violation of
23 this section; or

24 (iii) up to one thousand dollars for each intentional, knowing, or
25 willful violation of this section.

26 (c) In an action brought pursuant to paragraph (b) of this subdivi-
27 sion, the court may award costs of the action together with reasonable
28 attorneys' fees to a prevailing plaintiff.

29 (d) The right of action available under this subdivision is exempt
30 from any pre-dispute arbitration clauses that may bind a consumer who is
31 adversely affected by a violation of this section.

32 (e) Any agreement relating to the waiver of any provision within this
33 section shall be deemed void.

34 (f) Nothing in this section shall in any way limit rights or remedies
35 which are otherwise available under law to the attorney general or any
36 other person authorized to bring an action under this section.

37 § 3. The general business law is amended by adding a new section 349-g
38 to read as follows:

39 § 349-g. Deceptive pricing methods. The following pricing methods
40 which result in the sale or lease of any good or service shall be deemed
41 a deceptive practice pursuant to section three hundred forty-nine of
42 this article:

43 1. Advertising or otherwise displaying the price of a good or service
44 without clearly and conspicuously displaying the total price of such
45 good or service, including any and all mandatory fees associated with
46 the transaction;

47 2. Selling a good or service, or displaying a good or service being
48 sold by a third party, without clearly and conspicuously disclosing the
49 portion of the purchase price that represents a mandatory fee prior to
50 accepting payment for such good or service;

51 3. Leasing a good or service, or displaying a good or service being
52 leased by a third party, without clearly and conspicuously disclosing
53 the portion of the leasing price that represents a mandatory fee prior
54 to accepting payment for such good or service;

55 4. Making a false or misleading disclosure of subtotals, fees, charg-
56 es, or any other component of the total price of a good or service;

1 5. Presenting subtotals, fees, charges, or other components of the
2 total price of the good or service less prominently or in a font size
3 that is smaller than the font size used to present the total price of
4 the good or service; and

5 6. Increasing the price of a good or service after a consumer has
6 selected the good or service for purchase or lease.

7 § 4. This act shall take effect on the sixtieth day after it shall
8 have become a law.