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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Grim and Abdullahi

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SUMMARY

- Prohibits a supplier from advertising, displaying, or offering a price for a good or service that does not include all mandatory fees and charges.
- Makes several exceptions to the general price transparency requirement described above.
- Provides that a violation of the bill is an unconscionable act or practice in connection with a consumer transaction under the Ohio Consumer Sales Practices Act (CSPA).

DETAILED ANALYSIS

Price transparency requirement

The bill prohibits a supplier from advertising, displaying, or offering a price for a good or service that does not include all mandatory fees and charges. A violation of the bill's prohibition is considered an unconscionable act or practice in connection with a consumer transaction under the Ohio Consumer Sales Practices Act (CSPA).¹ Under continuing law, the CSPA applies to "consumer transactions," i.e., the sale or transfer of goods or services to an individual for primarily personal, family, or household purposes, or solicitation to supply any of those things.²

Exceptions

There are numerous exceptions to the CSPA that would also apply to the bill's prohibitions. The exceptions include: public utilities; certain dealers in intangibles; transactions involving home construction service contracts; transactions between certified accountants,

¹ R.C. 1345.023(A) and (E); R.C. 1345.01 to 1345.13, not in the bill.

² R.C. 1345.01(A), not in the bill.

attorneys, physicians, or dentists and their clients or patients; and transactions between veterinarians and their patients that pertain to medical treatment but not to ancillary services.

The bill adds several exceptions that are specific to its price transparency requirements. For example, transactions involving a loan made under the Short-term Loan Law and transactions in connection with residential mortgages between loan officers, mortgage brokers, or nonbank mortgage lenders and their customers are not exempt from the CSPA, but they are exempt for purposes of the bill's price transparency provisions (see "**Banking and lending transactions**," below).³

Food delivery platforms and menu prices

The bill specifies that a food delivery platform is not required to include in the menu price shown to the consumer the fees the supplier charges for providing its services.⁴

Tax and delivery fees

Under the bill, certain fees are not required to be disclosed. These include any tax, duty, fee, or custom levied by a governmental entity. Also, fees covering the cost of the delivery of goods, the amount of which is based upon the delivery method selected by the consumer, are not required to be disclosed up front, as long as the supplier discloses the amount of the delivery fees prior to accepting payment.⁵

Banking and lending transactions

Several types of banking and lending transactions are also exempt from the bill. These include any transaction that is regulated by Ohio law that cover banks, credit unions, consumer loans and lenders, and mortgage lenders, brokers, and servicers and any transaction that is subject to the following federal laws:

- "Truth in Savings Act;"
- "Electronic Fund Transfer Act;"
- "Truth in Lending Act;"
- "Real Estate Settlement Procedures Act;"
- "Home Ownership and Equity Protection Act."⁶

Internet

The bill's price transparency requirements do not apply to a supplier providing broadband internet access service on its own or as part of a bundle.

³ R.C. 1345.023(C)(2) and (3); R.C. 1345.01(A), not in the bill.

⁴ R.C. 1345.023(D).

⁵ R.C. 1345.023(B).

⁶ R.C. 1345.023(C)(2) and (3).

Motor vehicle sales and leases and air transportation

Lastly, a supplier that advertises a motor vehicle manufacturer's suggested retail set by a manufacturer or lease payments based on the manufacturer's suggested real price and air transportation provided by air carriers are not subject to the bill's provisions.

Remedies for a violation of the CSPA

Under continuing law, the Ohio Attorney General has broad authority to enforce the CSPA, including suing for injunctive relief and civil penalties. Additionally, if a consumer believes a supplier has committed an unfair, deceptive, or unconscionable act in connection with a consumer transaction, the consumer may sue to rescind the transaction or to recover the consumer's actual economic damages plus an amount not exceeding \$5,000 in noneconomic damages. If the supplier's violation is an act or practice that has already been declared deceptive or unconscionable by the Attorney General or by a court, then the consumer may sue to rescind the transaction or recover three times the amount of the consumer's actual economic damages.⁷

If the consumer sues to rescind the transaction, that must occur within a reasonable time after the consumer discovers or should have discovered the ground for revocation, and before any substantial change in condition of the subject of the consumer transaction. If the consumer sues for damages, that must occur within two years after the CSPA violation (e.g., the unfair, deceptive, or unconscionable act) or one year after the end of any proceedings by the Attorney General related to the violation.⁸

HISTORY

Action	Date
Introduced	05-15-24

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⁷ R.C. 1345.09(A) and (B), not in the bill.

⁸ R.C. 1345.05 to 1345.08, and 1345.10(C), not in the bill.