



March 13, 2024

The Honorable Matt D. Klein, Chairman
The Honorable Judy Seeberger, Vice Chairwoman
Minnesota Senate Committee on Commerce and Consumer Protection
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155

Dear Chairman Klein, Vice Chairwoman Seeberger, and members of the Minnesota Senate Committee on Commerce and Consumer Protection:

On behalf of the National Taxpayers Union (NTU), America's oldest taxpayer advocacy organization, and its many supporters in Minnesota, I write to offer our comments regarding SF 3537. This bill would imprecisely define mandatory fees and force businesses to include these fees in the advertised price of their products, lest they be considered a deceptive trade practice.

As a taxpayer advocacy group, we are deeply concerned about this government overreach. We at NTU and National Taxpayers Union Foundation (NTUF) have recently written and stood up for taxpayers against these broad, contradictory policies when promoted on a federal level at the Consumer Financial Protection Bureau, the Federal Communications Commission, and the Federal Trade Commission. Please consider NTUF Executive Vice President Joe Bishop–Henchman's recent [public comments to the FTC](#) and recommended policies that would protect consumers and taxpayers as you consider the ramifications of enacting this policy.

While the bill's authors certainly intend to protect consumers in nearly every industry in the economy from unexpected costs, the fact of the matter is that consumers and taxpayers will undoubtedly end up paying more for goods and services as retailers of all sizes throughout the state must spend time, effort, and financial resources on compliance. This will considerably offset, if not negate, any potential benefits the legislation desires to create.

The regulatory compliance of regulations and myriad definitions of "mandatory fees" cause company practices to be set up for each state in different ways. As NTU and NTUF President Pete Sepp recently [noted](#), the Biden administration itself still needs to come up with a consistent definition, and subsequent iterations of contradictory agency decisions on pricing. Furthermore, there would be even broader ramifications if each state were to make a unique definition of these fees.

Given its broad scope, this bill will have some serious unintended consequences. These definitions regulate all advertisements, displays, or offers of prices that do not reflect these "mandatory fees." The variable nature of consumer choice means these prices may vary depending on the products or services a customer ultimately desires. Requirements to report an "all-in" price can actually conspire to prevent a consumer from comparison shopping. It may also vary depending on the compliance complications a

business may face and not anticipate while providing those services. As Mr. Bishop–Henchman put it in his FTC comments, which have direct relevance to the language in SF 3537:

But under the Proposed Regulation, it will be nearly impossible for businesses using variable prices to display the Total Price at all times, because businesses are unable to predict consumer’s choices. Customers’ desires vary depending on the individual needs of the customer at that moment. However, under the Proposed Regulation, companies would engage in “an unfair and deceptive practice” if one customer needs a mandatory ancillary good or service under her circumstances which another customer does not need.

Ultimately, further study is necessary to understand the actual cost of compliance with this bill. At a time when Minnesota workers and families are facing the effects of inflation, we encourage you to consider any policies that might make groceries, meals, and necessities more expensive for consumers.

We also note that SF 3537 exempts “taxes imposed by a government entity” from its dictates, thereby completely contradicting the legislation’s purpose. Depending on the good or service offered, locally imposed government taxes, fees, and charges can add considerably to the total price. These include local sales taxes, business licenses, special area property taxes, and mandatory fees for items such as waste disposal. The same is also true for the embedded tax overhead that a given business may have to factor into the base price of the good or service, such as state income taxes or general property taxes. We would contend that it is “unfair and deceptive” for governments to conceal the burdens they impose on consumers and taxpayers.

Instead of imposing arbitrarily broad regulations without the time to fully understand the impact those restrictions may have on taxpayers, the government should focus on creating a regulatory environment that fosters competition and innovation. By embracing these goals, Minnesota will continue to drive down prices using market forces without creating new hurdles of fees and taxes, ultimately benefiting families, small businesses, workers, and the economy as a whole.

Thank you for your time and consideration of these concerns.

Sincerely,

Mattias Gugel
Director of State External Affairs
National Taxpayers Union