



May 7, 2024

**Re: Hospitality Minnesota Feedback on HF3438 (Greenman, Port)**

Dear Members of the Conference Committee on HF 3438:

Hospitality Minnesota represents hospitality businesses across the state of Minnesota, including restaurants and food service, hotels and lodging, resorts and campgrounds, and more. We advocate for policies that promote and support Minnesota’s hospitality and tourism industries.

While many of our members utilize various fees from resort fees, to service charges, to health and wellness fees and will be impacted by these changes, generally we have appreciated the discussion with authors. We do wish we had more time to review the DE amendment and continue conversations with conferees. Upon reviewing the proposed DE, we are sharing some additional feedback:

**Food and Beverage Service Establishments – Add Hotels:** We appreciate the author’s inclusion of our technical suggestion to insert “beverage” into “food and beverage service establishment” on line 2.9 of the DE – this language best reflects our industry definitions in [Sec 157.15 Subd 5](#). Unfortunately, our suggestion to add “including hotels” was not included in this draft, and we request it be inserted between “food and beverage establishments” and “shall” in line 2.9 – as indicated below.

(h) A food or beverage service establishment, including hotels, shall be deemed compliant with this section if, in every offer or advertisement for the purchase of a good or service that includes pricing information, the total price of the good or service being offered or advertised includes a clear and conspicuous disclosure of the percentage of any automatic and mandatory gratuities to be charged.

The purpose for this technical provision resulted from consultation with the team who licenses our industry at Minnesota Department of Health. It was concluded that while hotel restaurants, banquet facilities, breakfast areas and bars would fit into this section; rooms receiving room service would be viewed in line with a catered meal directly to the consumer. Standard practice for hotel room service generally includes an automatic gratuity and we are asking for parity with other food and beverage establishments.

**Credit Card Surcharges:** We remained concerned that small businesses which often utilize a credit card surcharge to offset exorbitant processing fees in compliance with [Sec. 325G.051](#) will be out of compliance with this law because the surcharge is not included in the sale price and is not clearly exempted from the law. The existing surcharge law has been in place since 1987 and was modernized last year, which our operators have adapted to. We would appreciate clarity on the following:

1. Would a business who applies a credit card surcharge in compliance with Sec. 325G.051 be compliant with this law if the surcharge is not included in the advertised sales price?
2. What steps should a business who utilizes a credit card surcharge take to ensure compliance with the requirements of this bill?



**Implementation Date:** In Senate hearings, we testified in support of an implementation date of August 1, 2025, so our members have an opportunity to receive legal guidance and direction from the Department of Revenue and Attorney General's Office, as well as ample time to update their business models. Furthermore, as we prepare for the Federal Trade Commission to release final rulemaking in the near future on unfair or deceptive fees, we believe the extended timeline will allow for any necessary adjustments in our state law to match federal rules. We urge you to reconsider to the August 1, 2025 implementation date.

We appreciate your work on this legislation and are available for any further discussion. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill Sims", with a stylized flourish at the end.

Jill Sims  
Director of Government Relations  
Hospitality Minnesota