

1.1 Senator moves to amend H.F. No. 3438, in conference committee, as
1.2 follows:

1.3 On R1, Senate language, (S3537-1)

1.4 Delete everything after the enacting clause and insert:

1.5 "Section 1. Minnesota Statutes 2022, section 325D.44, is amended by adding a subdivision
1.6 to read:

1.7 Subd. 1a. Advertisements, displays, or offers. (a) A person engages in a deceptive
1.8 trade practice when, in the course of business, vocation, or occupation, the person advertises,
1.9 displays, or offers a price for goods or services that does not include all mandatory fees or
1.10 surcharges. If the person that disseminates an advertisement is independent of the advertiser,
1.11 then that person shall not be liable for the content of the advertisement.

1.12 (b) For purposes of this subdivision, "mandatory fee" includes but is not limited to a fee
1.13 or surcharge that:

1.14 (1) must be paid in order to purchase the goods or services being advertised;

1.15 (2) is not reasonably avoidable by the consumer; or

1.16 (3) a reasonable person would expect to be included in the purchase of the goods or
1.17 services being advertised.

1.18 For the purposes of this subdivision, mandatory fee does not include taxes imposed by a
1.19 government entity on the sale, use, purchase, receipt, or delivery of the goods or services.

1.20 (c) A delivery platform must comply with the following requirements:

1.21 (1) at the point when a consumer views and selects either a vendor or items for purchase,
1.22 a delivery platform must display in a clear and conspicuous manner that an additional flat
1.23 fee or percentage will be charged. The disclosure must include the additional fee or
1.24 percentage amount; and

1.25 (2) after a consumer selects items for purchase, but prior to checkout, a delivery platform
1.26 must display a subtotal page that itemizes the price of the menu items and the additional
1.27 fee that will be included in the total cost.

1.28 (d) A person may charge a reasonable postage or shipping fee that will be actually
1.29 incurred by a consumer who has purchased a good that requires shipping.

1.30 (e) Nothing in this subdivision shall prevent a person from offering goods or services
1.31 at a discounted price from the advertised, displayed, or offered price.

2.1 (f) A person offering goods or services in an auction where consumers can place bids
2.2 on the goods or services and the total cost is indeterminable must disclose in a clear and
2.3 conspicuous manner any mandatory fees associated with the transaction and that the total
2.4 cost of the goods or services may vary.

2.5 (g) A person offering services, where the total cost is determined by consumer selections
2.6 and preferences, or relating to distance or time, must disclose in a clear and conspicuous
2.7 manner the factors that will determine the total price, any mandatory fees associated with
2.8 the transaction, and that the total cost of the services may vary.

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

2.14 (i) A person shall be deemed compliant with this subdivision if the person providing
2.15 broadband Internet access service on its own or as part of a bundle is compliant with the
2.16 broadband consumer label requirements adopted by the Federal Communications Commission
2.17 in FCC 22-86 on November 13, 2022, codified in Code of Federal Regulations, title 47,
2.18 section 8.1(a).

2.19 (j) A person shall be deemed compliant with this subdivision if they are compliant with
2.20 the pricing requirements adopted by the Federal Communications Commission in FCC
2.21 24-29 on March 19, 2024, codified in United Statutes Code, title 47, section 552.

2.22 (k) This subdivision is enforceable unless preempted by federal law.

2.23 **EFFECTIVE DATE.** This section is effective January 1, 2025.

2.24 Sec. 2. Minnesota Statutes 2022, section 325D.44, is amended by adding a subdivision to
2.25 read:

2.26 Subd. 1b. **Exemptions.** Subdivision 1a does not apply to the following:

2.27 (1) fees authorized by Minnesota Statutes related to the purchase or lease of a motor
2.28 vehicle, charged by a motor vehicle dealer as defined by section 168.27, subdivision 1,
2.29 paragraph (f); or

2.30 (2) any business or its affiliate where either the business or the affiliate is regulated by
2.31 the Minnesota Public Utilities Commission.

2.32 **EFFECTIVE DATE.** This section is effective January 1, 2025."

3.1 Amend the title accordingly