Date of Hearing: June 18, 2024

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION
Rebecca Bauer-Kahan, Chair
SB 1524 (Dodd) – As Amended June 5, 2024

AS PROPOSED TO BE AMENDED

SENATE VOTE: Not relevant

SUBJECT: Consumers Legal Remedies Act: advertisements: restaurant, bar, food service provider, or banquet or catering services

SYNOPSIS

Last year, the Legislature enacted SB 478 (Dodd; Ch.400, Stats. 2023) to address the scourge of "junk fees"—unexpected fees or surprise charges in transactions for good and services—by making it explicitly unlawful under the state's Consumers Legal Remedies Act to advertise, display, or offer a price for a good or service unless that price includes all mandatory fees or charges. SB 478's "all-in" pricing requirements become operative July 1, 2024.

While the discussion regarding SB 478 centered on hidden costs in transactions for hotels, air travel, car rentals, telecoms, and tickets for live events, the bill was cast broadly to apply across the various sectors of the economy. Nevertheless, it came as a surprise to many when the Attorney General, who co-sponsored the bill, issued guidance that, among other things, concluded that mandatory fees charged by restaurants are subject to pricing transparency under SB 478.

The author of both this bill and its predecessor states that SB 478 "sought to address bait and switch practices in which a business advertising a lower price only to add additional 'hidden fees' during the final purchase process or revealed only upon receiving a bill. In working through implementation of the measure, potential harms have come to light in the form of lost wages and benefits provided to workers whose employers or unions have negotiated additional benefits afforded by service fees in the food service industry."

This bill would exempt from SB 478's all-in pricing requirements mandatory fees or charges for individual food or beverage items sold directly to a customer by a restaurant, bar, food concession, grocery store, grocery store delivery service, or by means of a menu or contract for banquet or catering services that fully discloses the terms of service. Such mandatory fees must be clearly and conspicuously displayed, with an explanation of its purposes, on any advertisement, menu, or other display that contains the price of the food or beverage item.

To enact this change before SB 478's July 1 operative date, the bill includes an urgency clause and is being expedited through the process: it is set to be heard in Assembly Judiciary immediately before it is heard in this Committee. Due to timing constraints, the amendments that are anticipated to be taken in the Assembly Judiciary Committee will be processed in this Committee. The amendments are set forth in full in Comment 6.

The bill is co-sponsored by the Office of the Lieutenant Governor, the California Restaurant Association, and UNITE Here. The bill is supported by a broad coalition of restaurants and hospitality associations. The Consumer Federation of California opposes the bill.

SUMMARY: Provides that a mandatory fee or charge imposed by restaurants and certain food service providers do not need to be included in the advertised "all-in" price, provided that any such mandatory fee or charge is clearly and conspicuously displayed. Specifically, **this bill**:

1) Provides that the prohibition on advertising, displaying, or offering a price for a good or service that does not include all mandatory fees or charges does not apply to restaurants, bars, and other food service providers, as provided.

2) Establishes that 1) applies provided that a mandatory fee or charge is clearly and conspicuously displayed with an explanation of its purpose.

3) Establishes that 1) applies provided that the clear and conspicuous display of a mandatory fee or charge appears on any advertisement, menu, or other display that contains the price of the food or beverage item.

4) Provides that 1) applies only to individual food or beverage items sold directly to a customer by a restaurant, bar, concession, grocery store, grocery store delivery service, or by means of a menu or contract for banquet or catering service that fully discloses the terms of service.

5) Defines "grocery delivery service" as a company owned by, or under contract with, a grocery store that delivers food, primarily fresh produce, meat, poultry, fish, deli products, dairy products, perishable beverages, baked foods, and prepared foods, from the grocery store to a consumer.

6) States that a third-party food delivery platform, as defined, or food delivery platform is not a grocery delivery service, and therefore falls outside the scope of this measure.

7) Establishes that any disclosure, advertisement, or notice that is required to be "clearly and conspicuously" made must have text that is "clear and conspicuous," as defined.

8) Provides for delayed implementation of 7) until July 1, 2025.

9) Establishes that the provisions of the Consumers Legal Remedies Act (CLRA) are severable.

10) Provides that in order to accurately target application and enforcement of consumer protection laws that go into effect on July 1, 2024, it is necessary for this act to take effect immediately.

EXISTING LAW:

1) Establishes CLRA, which prohibits certain enumerated unfair methods of competition, and unfair or deceptive acts or practices, in connection with a transaction intended to result, or that does result, in the sale or lease of goods or services. (Civil Code §§ 1750-1784.)[1]

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[1] Subsequent statutory references are to the Civil Code unless otherwise noted.

2) Defines the following terms under the CLRA:

    a) "Goods" means tangible chattels bought or leased for use primarily for personal, family, or household purposes. (§ 1761(a).)

    b) "Services" means work, labor, and services for other than a commercial or business use, including services furnished in connection with the sale or repair of goods. (§ 1761(b).)

0) Provides that the CLRA's underlying purposes are to protect consumers against unfair and deceptive business practices and to provide efficient and economical procedures to secure such protection. (§ 1760.)

1) Provides that any consumer who suffers any damage as a result of the use or employment by any person of a method, act, or practice declared to be unlawful under CLRA may bring an action against that person to recover or obtain any of the following:

    a) Actual damages, but in no case shall the total award of damages in a class action be less than $1,000.

    b) An order enjoining the methods, acts, or practices.

    c) Restitution of property.

    d) Punitive damages.

    e) Any other relief that the court deems proper. (§ 1780(a).)

2) Beginning July 1, 2024, prohibits advertising, displaying, or offering a price for a good or service that does not include all mandatory fees or charges other than either of the following:

    a) Taxes or fees imposed by a government on the transaction.

    b) Postage or carriage charges that will be reasonably and actually incurred to ship the physical good to the consumer. (§ 1770(a)(29).)

3) Defines "clear and conspicuous" as a larger type than the surrounding text, or in a contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks, in a manner that clearly calls attention to the language. (§ 1791(u).)

4) Defines "third-party food delivery platform" as a business engaged in the service of online food ordering and delivery from a food facility to a consumer.

FISCAL EFFECT: As currently in print, this bill is keyed nonfiscal.

COMMENTS:

1) **Background.** The underlying purpose of the CLRA is "to protect consumers against unfair and deceptive business practices and to provide efficient and economical procedures to secure such protection."[2] The CLRA "shall be liberally construed and applied to promote its underlying purpose."[3] Section 1770 lists unlawful practices under the CLRA.[4] For example, "[a]dvertising goods or services with intent not to sell them as advertised" is an unlawful practice.[5] Also, "[a]dvertising that a product is being offered at a specific price plus a specific percentage of that price unless (A) the total price is set forth in the advertisement . . . in a size larger than any other price in that advertisement" is an unlawful practice.[6]

SB 478 (Dodd, 2023). Co-sponsored by Attorney General Rob Bonta and the California Low-Income Consumer Coalition, SB 478 added "junk fees" to CLRA's list of unlawful practices. Beginning July 1, 2024, CLRA will prohibit "advertising, displaying, or offering a price for a good or service that does not include all mandatory fees or charges" except for government taxes, fees, and shipping costs.[7] SB 478 was "intended to specifically prohibit drip pricing, which involves advertising a price that is less than the actual price that a consumer will have to pay for a good or service." SB 478 does not prohibit any particular method of determining pricing; rather it "is intended to regulate how prices are advertised, displayed, or offered."

Mandatory fees charged at restaurants. Many restaurants charge additional fees on top of the bill in order to benefit their workers. Such charges include automatic gratuities, fees to supplement healthcare coverage, and other benefits. Some restaurants are moving away from the tradition of tipping and are instead imposing service charges that are pooled and distributed equitably between servers and kitchen workers.[8]

Other types of mandatory charges do not directly benefit workers but instead offset the cost of doing business, such as "security charges,"[9] fees to cover inflation, credit card transactions, or even tap water.[10] These types of fees have generated more backlash from consumers.

Attorney General's Guidance. On May 8, 2024, the Attorney General's office released a list of frequently asked questions to give guidance on the enforcement of SB 478. To the surprise and consternation of some, the guidance expressly concludes that the food service industry is covered by SB 478. Relevant here:

> **How can a food-delivery platform advertise its delivery price?**
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> Food delivery platforms are subject to special requirements under Business and Professions Code section 22598 et seq. when they list the prices charged by a restaurant

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[2] § 1760.
[3] *Ibid*.
[4] *See* § 1770.
[5] § 1770(a)(9).
[6] § 1770(a)(20).
[7] § 1770(a)(29).
[8] Elena Kadvany, "It's not just Zuni: Many Bay Area restaurateurs are ending tipping as they reopen" (Jun. 6, 2021), https://www.sfchronicle.com/food/article/It-s-not-just-Zuni-Many-Bay-Area-restaurateurs-16226352.php.
[9] Summer Lin, "Perch charges diners 'security' fee at downtown L.A. rooftop spot, sparking outrage" (Apr. 9, 2024), https://www.latimes.com/california/story/2024-04-09/restaurant-security-surcharge-new-junk-fee-law
[10] Jessica Dickler, "Forget 'tipflation:' Restaurant surcharges for inflation, health care, water are consumers' latest pet peeve" (Jul. 24, 2023), https://www.cnbc.com/2023/07/17/diners-push-back-against-restaurants-adding-surcharges-to-the-bill.html.

from which they deliver food, and this law does not change those requirements. But when the food delivery platform advertises the price of the delivery service that it provides, it must advertise the full, all-in price of the delivery service.

Are fees associated with delivery of food and other items ordered directly from a restaurant considered to be "mandatory fees or charges," such that those fees would need to be included in the advertised or displayed price of the food and other items?

No, fees for the delivery of food ordered directly from a restaurant do not need to be included in the advertised price of the food or other items ordered because those fees are for the separate service of delivery. The price of delivery must be the full, all-in price of the delivery service.

Can a business exclude from the advertised or listed price mandatory charges that will be used to pay business costs, such as security, rent, or salary, healthcare insurance or benefits to employees (e.g., "Healthy SF mandate")?

No. The listed or advertised price must include all mandatory charges except for reasonable shipping costs for physical goods and taxes and/or fees that the government imposes on the transaction, such as sales tax. A business is free to provide a subsequent breakdown of the business's intended use of the various fees.

What about tips or gratuities left voluntarily by customers?

This law does not affect tips or gratuities left by customers, since they are not mandatory. These voluntary payments to workers are governed by other laws, including Labor Code section 350. [. . .]

What about mandatory fees charged by restaurants?

If a restaurant charges a mandatory fee, it must be included in the displayed price. Under the law, a restaurant cannot charge an additional surcharge on top of the price listed. Gratuity payments that are not voluntary must be included in the list price.

Does DOJ expect that its initial enforcement of this law will focus on existing fees that are paid directly and entirely by a restaurant to its workers, such as an automatic gratuity?

No. There are many factors that we consider when making enforcement decisions, but we do not expect that our initial enforcement efforts will focus on existing fees that are paid directly and entirely by a restaurant to its workers, such as an automatic gratuity. However, businesses may be liable in private actions.[11]

2) **Author's statement.** According to the author:

SB 1524 seeks to enhance consumer protections by providing that restaurants, bars, and food service providers must clearly and transparently disclose all mandatory fees up-front to

[11] California Department of Justice, "SB 478: Frequently Asked Questions," https://oag.ca.gov/system/files/attachments/press-docs/SB%20478%20FAQ%20%28B%29.pdf.

consumers on all menus and advertising in a clear and conspicuous manner. SB 478 (Dodd; Ch. 400, Stat. 2023) sought to address bait and switch practices in which a business advertising a lower price only to add additional "hidden fees" during the final purchase process or revealed only upon receiving a bill. In working through implementation of the measure, potential harms have come to light in the form of lost wages and benefits provided to workers whose employers or unions have negotiated additional benefits afforded by service fees in the food service industry. In recent years, many restaurants have moved away from tipping to a service fee model to create greater equity between front and back-of-the-house employees. If service charges are eliminated and instead prices are increased – the benefit of those increases will flow disproportionately to employees that will receive higher tips – exasperating compensation inequities. In addition to automatic gratuities, unions have bargained for service charges to supplement healthcare coverage, pension payments, and other health and welfare benefits. Elimination of service charges will upend these collectively bargained benefits, leaving workers with lost wages and other collectively bargained protections. SB 1524 codifies best practices by restaurants and other food service providers by ensuring that any and all fees are clearly disclosed to consumers up-front so that consumers are empowered with the full and complete costs ahead of making their purchase.

3) **SB 478 applies to restaurants.** If a court finds statutory language unambiguous, "then the Legislature is presumed to have meant what it said, and the plain meaning of the language governs."[12]

A handful of California trial court and Federal District Court cases that predate SB 478 have concluded that menus do not constitute "advertising" under CLRA. Although these cases are not binding precedents in California, their reasoning is persuasive. A menu differs from a traditional advertisement in a number of ways: "Restaurant menus are not public announcements which are published or disseminated to the general public in an effort to arouse a desire to buy or patronize; rather, they are lists of offerings of items available at a restaurant."[13] Less persuasive, however, is a trial court case that concluded a "taco" is not a "good" for purposes of CLRA.[14] The CLRA defines "goods," in relevant part, as "tangible chattels bought or leased for use primarily for personal, family, or household purposes."[15] *Black's Law Dictionary*, in turn, defines "chattel" as "personal property; esp. a physical object capable of manual delivery and not the subject matter of real property." *Black's* cites to a legal dictionary from 1690 that offered as an example of a "real" chattel "Apples upon a Tree."[16] Still, although not entirely settled, it appears that, pre-SB 478, restaurant mandatory charges generally were not understood to fall under CLRA.

But SB 478 applies not just to advertising but also to "displaying" and "offering a price" for any "good or service," terms that readily embrace menus, which, according to one of the cases discussed above, are "lists of offerings of items available at a restaurant." Thus, SB 478 plainly encompasses the food services industry and menus. In this regard, the CLRA "shall be liberally construed and applied to promote its underlying purposes, which are to protect consumers

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[12] *Kirzhner v. Mercedes-Benz USA, LLC* (2020) 9 Cal.5th 966, 972 (citations omitted).
[13] *Holt v. Noble House Hotels & Resort, Ltd* (S.D.Cal. 2019) 370 F. Supp. 3d 1158, 1166.
[14] *Livingstone v. Shelter Island, Inc*. (2019 Cal. Super.) LEXIS 19556, *24.
[15] § 1761(a).
[16] Bryan Garner, *Black's Law Dictionary* (9th ed.), p. 268.

against unfair and deceptive business practices and to provide efficient and economical procedures to secure such protection."[17]

The legislative history of SB 478 bolsters this conclusion. This Committee's analysis stated that "the bill would seek to bring price transparency to *all sectors* of the state's economy simultaneously, rather than through piecemeal litigation or lawmaking." (Emphasis added.) The author's statement quoted in the analysis stated SB 478 would "require honest price advertising and full disclosure in pricing *across the board* for the protection of California consumers and businesses who are up-front about their prices." (Emphasis added.) Attorney General Bonta's sponsorship letter, also quoted in this Committee's analysis, stated "the practice of hiding required fees is deceptive and unfair to consumers wherever it occurs—*not just in certain industries*. Accordingly, SB 478 would prohibit this deceptive advertising practice *across the board* in California, and allow broad civil enforcement of violations under the CLRA." (Emphasis added.) More to the point, the Senate Judiciary Committee's analysis of the bill quoted Attorney General Bonta's argument that "Hidden required fees are now charged for a variety of goods and services, such as lodging, tickets for live events, *restaurants* and food delivery, telecom and internet service, and car rentals and purchases. . . ." (Emphasis added.)

Despite the fact that the bill was cast broadly to apply economy-wide, however, discussions of SB 478 centered on hidden costs in transactions for hotels, air travel, car rentals, telecoms, and tickets for live events. Given that some case law indicated CLRA does not apply in to restaurants, it is understandable that the Attorney General's guidance, though correct, caught the restaurant industry by surprise.

4) **What this bill does**. This bill would exempt from SB 478's all-in pricing requirements mandatory fees or charges for individual food or beverage items sold directly to a customer by a restaurant, bar, food concession, grocery store, grocery store delivery service, or by means of a menu or contract for banquet or catering services that fully discloses the terms of service. Such mandatory fees must be clearly and conspicuously displayed, with an explanation of its purposes, on any advertisement, menu, or other display that contains the price of the food or beverage item. The bill would go into effect immediately as an urgency measure. Proponents hope to send the bill to the Governor before SB 478's looming operative date of July 1.

Absent such a change, SB 478, as applied to restaurants, would require prices listed in menus, advertisements, and displays to include all costs charged by the restaurant. Instead of listing a price of, say, $25 for spaghetti and adding a 10% mandatory gratuity on the final bill, the restaurant would have to list the price of the spaghetti as $27.50. "Some restaurant owners said raising menu prices that way without providing the context could hurt their business. And if they dropped the charges without raising listed prices, in an effort to stay competitive, that would mean reducing their already slim profit margins, or even laying off staff …"[18] However, nothing in SB 478 prohibits the restaurant from providing context: the $27.50 price could be accompanied by a footnote stating that 10% of the cost of the dish goes to workers.

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[17] § 1760.
[18] Soumya Karlamangla "A California Law Banning Hidden Fees Goes Into Effect Next Month" (Jun. 14, 2024) *New York Times*, https://www.nytimes.com/2024/06/14/us/california-restaurant-hidden-fees-ban.html.

5) **Equal protection considerations.** The federal and state constitutions guarantee equal protection under the law.[19] Where discrimination is not based on a protected class, however, the classification is upheld so long as "there is a rational relationship between the disparity of treatment and some legitimate governmental purpose."[20] "[E]conomic protectionism for its own sake, regardless of its relation to the common good, cannot be said to be in furtherance of a legitimate governmental interest."[21]

The restaurant industry is arguably unique in that it has traditionally added service charges to base prices in a way that aligns with consumer expectations. As a notoriously low-margin industry, an apparent sudden spike in menu prices could, in theory, make consumers mistakenly believe that the overall prices have shot up, which could lead to layoffs and even closures. Preventing such a result would serve a common good beyond economic protectionism.

As amended by the Judiciary Committee, the bill contains a severability clause so as to avoid jeopardizing the larger scheme established by SB 478.

6) **Amendments taken in the Judiciary Committee**. Immediately before it is heard in this Committee, the bill is set to be heard in the Judiciary Committee, where it is anticipated that the bill will be amended. The amendments, which will be processed in this Committee due to timing constraints, are as follows:

> **Section 1770(a)(29)(D)*(i)*** ~~**For purposes of this paragraph, "advertising, displaying, or offering a price for a good or service" does not include advertising or displaying the price**~~ of ~~-~~ ***Subject to subparagraph (ii), this paragraph does not apply to a mandatory fee or charge for*** individual food or beverage items sold ***directly to a customer*** by a restaurant, bar, or ~~**other**~~ food ~~**service provider,**~~ ***concession, grocery store, grocery delivery service,*** or ~~**sold pursuant to a**~~ ***by means of a menu or*** contract for banquet or catering services ***that fully discloses the terms of service***. ~~**,provided that any service charge, mandatory gratuity, or other mandatory fee or charge is clearly and conspicuously displayed on the advertisement, menu, or other display.**~~
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> ***(ii) A mandatory fee or charge under subparagraph (i) shall be clearly and conspicuously displayed, with an explanation of its purpose, on any advertisement, menu, or other display that contains the price of the food or beverage item.***

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[19] U.S. Const., 14th Amend.; Cal. Const., art. I, § 7(a).
[20] *Heller v. Doe* (1993) 509 U.S. 312, 320.
[21] *Merrifield v. Lockyer* (9th Cir. 2008) 547 F.3d 978, 991, fn. 15 (*Merrifield*); *Allied Concrete & Supply Co. v. Baker* (9th Cir. 2018) 904 F.3d 1053, 1064 ("bare economic protectionism is not a valid justification for discriminatory treatment"). In *Merrifield*, the Ninth Circuit addressed the application of California's pesticide licensing scheme to pest controllers, regardless of whether they use pesticides, who dealt with bats, raccoons, skunks, and squirrels but not pest controllers who dealt with mice, rats, or pigeons. (*Merrifield, supra,* 547 F.3d at pp. 981–82.) The plaintiff, who did not use pesticides, challenged the licensure scheme on due process and equal protection grounds. In defending the law against a due process challenge, the state argued that licensure was needed to educate workers about pesticide risks, even if they did not use pesticides. (*Id*. at pp. 987–88.) But since those who eradicate mice, rats, and pigeons were more likely to encounter pesticides, the Ninth Circuit concluded that the state "undercut its own rational basis for the licensing scheme," striking down the selective exemptions as equal protection violations. (*Id*. at p. 992.)

(iii) "Grocery delivery service" means a company owned by a grocery store that delivers food, primarily fresh produce, meat, poultry, fish, deli products, dairy products, perishable beverages, baked foods, and prepared foods, from the grocery store to a consumer.

(iv) The exemption in this subparagraph does not apply to a "third-party food delivery platform," as defined in Health and Safety Code Section 113930.5, or any other food delivery platform.

Additional amendments clarify the meaning of "clear and conspicuous" disclosure. Recognizing the time it will take for all restaurants and food providers that fall within the scope of this bill to update their menus and displays to conform with the text and font requirements cross-referenced in this bill, the "clear and conspicuous" definition, for purposes of this measure, will only go into effect next year, on July 1, 2025.

1770*(c) As of July 1, 2025, any disclosure, advertisement, or notice that is required to be "clearly" or "clearly and conspicuously" made must have text that is "clear and conspicuous" as defined in subdivision (u) of Section 1791 of the Civil Code*.

~~(c)~~ ***(d)***This section shall become operative on July 1, 2024.

Further amendments add uncodified severability and urgency clauses to the bill, and delete intent language in the bill in print.

~~SEC. 2. The changes made in subparagraph (D) of paragraph (29) of subdivision (a) of Section 1770 of the Civil Code in Section 1 of this act are intended to clarify, and do not constitute a change in, existing law.~~

SEC. 2. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 3. In order to accurately target application and enforcement of consumer protection laws that go into effect on July 1, 2024, it is necessary for this act to take effect immediately.

ARGUMENTS IN SUPPORT: UNITE HERE writes:

> An unintended consequence of last year's SB 478 is that legitimate service fees charged by restaurants will no longer be allowed after July 1 of this year. Many of those service fees go to workers either through service charges that are distributed to both front and back of the house staff in restaurants. Other service charges go to supplement health and pension benefits of food service workers at restaurants, bars, banquet operators, airports, stadiums, and many other places where consumers are fed. Much of this has been negotiated through collective bargaining between our union and employers. Without SB 1524, all of this would be upended, and these workers would see unnecessary pay and benefit cuts.

The California Restaurant Association, California Travel Association, and California Attractions and Parks Association jointly write:

SB 1524 builds upon SB 478 from 2023 which was aimed at preventing "drip pricing," where consumers see an advertised price, but are subject to additional, undisclosed charges at purchase.

SB 1524 requires restaurants and other food service establishments to properly disclose to guests any service charges, surcharges, auto-gratuities and other similar charges in advance of customer purchase.

Additionally, SB 1524 provides strong protections against "drip" or "bait and switch" pricing by requiring restaurants to clearly disclose the existence or amount of a mandatory service charge, auto-gratuity, or surcharge on the menu. This transparency in pricing allows guests to be presented with the price of various menu items and the amount of the surcharge at the same point in time, when they are deciding what to order, and before they are charged for the meal.

Finally, SB 1524 acknowledges the increasing trend among restaurants to establish and disclose "service charge" models to help finance non-mandatory benefits to team-members and staff. For example, in recent years many restaurants have shifted to a service fee model giving the establishment greater ability to disburse those dollars to create greater equity between front and back-of-the-house employees.

Without SB 1524- and its required disclosure to guests ahead of purchase- a host of unintended consequences for restaurant operators, patrons, and workers will rapidly take place.

ARGUMENTS IN OPPOSITION: Consumer Federation of California (CFC) writes:

Consumers deserve to know up front what something will truly cost, be it a concert or sporting ticket, rental housing, new or used vehicle, rental car, hotel room or house rental, account with a credit union or bank, mobile phone plan, cable or streaming service, and a restaurant meal or takeout delivery. Almost all of these industries were included in the scope of SB 478 (auto dealers and car rentals were two of the exclusions that CFC finds lamentable. Simply put, there is no justifiable public policy reason why the restaurant industry should be excluded from the new law that hasn't even fully gone into effect yet.

Despite SB 1524 stating that the language in the bill is "intended to clarify, and do[es] not constitute a change in, existing law" the bill absolutely changes existing law and narrows the scope of the bill to generally exclude the restaurant industry. In fact, the language of the current June 5th version of the bill is overly broad and creates loopholes to compliance that, if not fixed, will keep consumers in the dark.

For example, at the end of the language the exemption requires that there must be a clear and conspicuous display "on the advertisement, menu, or other display." The most obvious concern with this language is "or other display," as that would lead to restaurants and bars picking the most opaque "other display" to note any additional mandatory fees and charges not displayed in the menu price of an item, for example. CFC recommends that this language be tightened up.

Additionally, the scope of the bill's exemption broadly encompasses restaurants, bars, "other food service provider[s]" and the catering/banquet industry. This is overly broad and we fear will also lead to other loopholes due to the language about "other food service provider[s]."

Furthermore, CFC must note that what is currently happening in the restaurant industry generally is infuriating consumers of all income levels, but particularly those of low and moderate incomes. Many mandatory fees are actually misleadingly labeled to create the false impression in the consumer's mind that some or all of these fees are actually government pass-throughs when they are not, or fees that will help the workers at the restaurant, when their either do not at all or only a small percentage of said fee helps the workers. This directly leads to two outcomes - first the consumer gets frustrated and then leaves a smaller optional tip, which hurts employees (especially in the context of consumer frustration with now being asked to tip for products and services that never previously seemed to warrant a tip), and then the consumer converts this frustration upon seeing the bill by choosing not to dine in the future at that particular establishment. Neither outcome is good for consumers or workers.

CFC is sympathetic to the notion of the mandatory tip and how it helps many struggling workers in the always-challenging restaurant industry. In fact, many labor unions actually collectively bargain on such matters, and those negotiations ought to be respected by the Legislature when contemplating the approach taken by this bill. Many a restaurant server has been economically disadvantaged by serving a table of 6, 8 or more diners and losing out on adequate voluntary tips at that table and also by not being able to serve other smaller tables. We urge the Legislature to seriously contemplate the needs of all union workers who may be in the scope of SB 1524 (which we again urge the authors to narrow by clarifying the issue of who is within the scope of "other food service provider[s]."

At the core of last year's SB 478, much of CFC's junk and hidden-fee work, and many of the initiatives of the Biden Administration is the simple concept that consumers should know with as much specificity as possible what something will actually cost before they choose whether to buy it or not. This guiding principle of being aggressively open and honest with consumers should help narrow the scope of SB 1524. To that end CFC stands ready to participate in any process to help determine that scope. But as currently in print CFC must respectfully Oppose Unless Amended SB 1524.

REGISTERED SUPPORT / OPPOSITION:

Support

Office of Lieutenant Governor, Eleni Kounalakis (co-sponsor)
California Restaurant Association (co-sponsor)
UNITE HERE (co-sponsor)
Bavel Restaurant
Bestia Restaurant
California Airports Council
Jeff Manno Consulting, LLC
Saffy's
San Diego County Regional Airport Authority
San Francisco International Airport
Torrance Area Chamber of Commerce

Support If Amended

California State Council of Service Employees International Union (SEIU California)
UFCW - Western States Council

Oppose Unless Amended

Consumer Federation of California

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