

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4739

By Delegates Young and Fluharty

[Introduced January 22, 2026; referred to the

Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
2 designated §12-11-1, §12-11-2, §12-11-3, §12-11-4, §12-11-5, §12-11-6, §12-11-7, and
3 §12-11-8, all relating to the creation of the Junk Fee Prevention Act; setting forth a short
4 title; providing for the purpose; providing for legislative findings; setting forth definitions;
5 defining deceptive pricing methods, acts, and practices; providing for private rights of
6 action; creating actions by the Attorney General; providing limitations; and providing for
7 preemption.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. JUNK FEE PREVENTION ACT.

§12-11-1. Short title.

1 This Act may be cited as the "Junk Fee Prevention Act".

§12-11-2. Purpose.

1 The purpose of this Act is to address the rampant use of deceptive pricing methods, acts,
2 and practices known as junk fees, which artificially increase prices, exacerbate inflation, and harm
3 competition across the American economy.

§12-11-3. Legislative findings.

1 (a) Americans are charged billions of dollars every year for junk fees added on to the costs
2 of goods and services provided across a large swath of the American economy, including in
3 banking, air travel, online ticket sales, hotel bookings, delivery services, ride sharing, and car
4 rentals.

5 (b) Junk fees obfuscate the true cost of a company's goods and services, luring in
6 customers and undercutting competitors by advertising deceptively low prices and slowly adding
7 on surcharges and fees later in the purchasing process.

8 (c) These junk fees result in systematic transfers of wealth from less informed consumers
9 to more educated ones. They also result in confusion around advertised prices, which makes it
10 harder for competitors with genuinely lower prices to compete with those who shroud their prices

11 with hidden junk fees, and enable tacit collusion between competitors in the form of parallel
12 decisions to make certain junk fees a standard part of the purchasing process.

13 (d) Deceptive pricing methods, acts, and practices create a confusing marketplace for
14 buyers, and their existence structurally harms competition. They have enabled the proliferation of
15 junk fees in the American economy, so consumers cannot take advertised prices at face value or
16 comparison shop with any efficiency.

§12-11-4. **Definitions.**

1 In the construction of this article, unless the contrary is plainly apparent from the context—

2 (1) "Commerce" means all commerce which may lawfully be regulated by Congress.

3 (2) "Consumer" means an individual who seeks or acquires, by purchase or lease, any
4 goods or services for personal, family, or household purposes.

5 (3) "Goods" means tangible chattels bought or leased primarily for personal, family, or
6 household purposes, including but not limited to:

7 (A) Consumer financial products as that term is defined in 12 U.S.C. § 5481;

8 (B) Certificates or coupons exchangeable for these goods; and

9 (C) Goods that, at the time of the sale or subsequently, are to be so affixed to real property
10 as to become a part of real property, whether or not they are severable from the real property.

11 (4) "Mandatory fee" includes but is not limited to:

12 (A) Any fee or surcharge that must be paid in order to purchase the advertised good or
13 service;

14 (B) A fee or surcharge that is not reasonably avoidable; or

15 (C) A fee or surcharge for any good or service that a reasonable consumer would expect to
16 be included with the purchase of the advertised good or service.

17 (5) "Person" means an individual, partnership, corporation, limited liability company,
18 association, or other group, however organized.

19 (6) "Pre-dispute arbitration agreement" means an agreement to arbitrate a dispute that has

20 not yet arisen at the time of the making of the agreement;

21 (7) "Pre-dispute joint-action waiver" means an agreement, whether or not part of a pre-
22 dispute arbitration agreement, that would prohibit, or waive the right of, one of the parties to the
23 agreement to participate in a joint, class, or collective action in a judicial, arbitral, administrative, or
24 other forum, concerning a dispute that has not yet arisen at the time of the making of the
25 agreement.

26 (8) "Services" means work, labor, and services bought primarily for personal, family, or
27 household purposes, including but not limited to (1) consumer financial services as that term is
28 defined in 12 U.S.C. § 5481 and (2) services furnished in connection with the sale or repair of
29 goods.

30 (9) "Transaction" means an agreement between a consumer and any other person,
31 whether or not the agreement is a contract enforceable by action, and includes the making of, and
32 the performance pursuant to, that agreement.

§12-11-5. Deceptive pricing methods, acts, and practices.

1 (a) The following deceptive pricing methods, acts, and practices undertaken by any person
2 in a transaction affecting commerce and intended to result in or which results in the sale or lease of
3 goods or services to any consumer are unlawful:

4 (1) Advertising or otherwise displaying the price of a good or service without displaying the
5 total price of the good or service inclusive of all mandatory fees in a clear and conspicuous
6 manner;

7 (2) Selling a good or service, or displaying a good or service being sold by a third party,
8 without disclosing the portion of the purchase price that represents a mandatory fee for the
9 purchase in a clear and conspicuous manner prior to accepting payment for the good or service
10 selected;

11 (3) Making a false or misleading disclosure of subtotals, fees, charges, or any other
12 component of the total price of a good or service;

13 (4) Presenting subtotals, fees, charges, or other components of the total price of the good
14 or service less prominently or in a font size that is smaller than the font size used to present the
15 total price of the good or service;

16 (5) Increasing the price of a good or service after a purchaser has selected the good or
17 service for purchase;

18 (6) Charging an excessive or unreasonable fee or surcharge for the early termination of a
19 contract for goods or services; and

20 (7) Charging any fee or surcharge for or imposing any other conditions or requirements on
21 the early termination of a contract for goods or services that was automatically renewed upon the
22 expiration of the original contract.

23 (b) Subsection (a) does not apply to:

24 (1) Any tax, duty, or custom levied by any local, state, federal, or other governmental entity;

25 (2) Fees covering the cost of delivery of goods, the amount of which is based upon the
26 delivery method selected by the purchaser, so long as the person discloses the amount of the
27 delivery fees prior to accepting payment; or

28 (3) A method, act, or practice declared to be unlawful by subsection (a) if the person
29 alleged to have employed or committed such method, act, or practice:

30 (A) Proves that such violation was not intentional and resulted from a bona fide error
31 notwithstanding the use of reasonable procedures adopted to avoid any such error; and

32 (B) Upon notice, makes an appropriate refund of the resulting overcharge to the consumer
33 or consumers harmed by the violation within 30 days of receipt of such notice.

34 (c) The district courts of the United States are hereby invested with jurisdiction to prevent
35 and restrain violations of this section.

<u>§12-11-6.</u>	<u>Actions</u>	<u>by</u>	<u>Attorney</u>	<u>General.</u>
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1 (a) The Attorney General may bring a civil action in the name of West Virginia, as *parens*
2 *patriae* on behalf of consumers that suffer any damage as a result of the use or employment by

3 any person of a deceptive pricing method, act, or practice declared to be unlawful by this Act, in
4 any district court of the United States having jurisdiction of the defendant, to secure:

5 (1) For unintentional violations, damages in the amount of \$500 per consumer per incident
6 or actual damages, whichever is greater;

7 (2) For intentional, knowing, or willful violations, damages in the amount of \$1,000 per
8 consumer per incident or actual damages, whichever is greater;

9 (3) Injunctive or declaratory relief; and

10 (4) Any other relief the court deems proper.

11 (b) The court shall exclude from the amount of monetary relief awarded in such action any
12 amount of monetary relief (1) which duplicates amounts which have been awarded for the same
13 injury, or (2) which is properly allocable to consumers who have excluded their claims pursuant to
14 subsection (e) of this section.

15 (c) In any action under subsection (a), the court shall, at the conclusion of the action, award
16 to a substantially prevailing state the cost of suit attributable to such claim, including a reasonable
17 attorney's fee.

18 (d) In any action brought under subsection (a) of this section, the Attorney General of West
19 Virginia shall, at such times, in such manner, and with such content as the court may direct, cause
20 notice thereof to be given by publication. If the court finds that notice given solely by publication
21 would deny due process of law to any person or persons, the court may direct further notice to
22 such person or persons according to the circumstances of the case.

23 (e) Any consumer on whose behalf an action is brought under subsection (a) may elect to
24 exclude from adjudication the portion of the claim by the West Virginia for monetary relief
25 attributable to them by filing notice of such election with the court within such time as specified in
26 the notice given pursuant to subsection (d).

27 (f) The final judgment in an action under subsection (a) shall be *res judicata* as to any claim
28 for violations of this Act by any consumer on behalf of whom such action was brought and who fails

29 to give such notice within the period specified in the notice given pursuant to paragraph (1) of this
30 subsection.

31 (g) An action under subsection (a) shall not be dismissed or compromised without the
32 approval of the court, and notice of any proposed dismissal or compromise shall be given in such
33 manner as the court directs.

34 (h) Monetary relief recovered in an action under this section shall (1) be distributed in such
35 manner as the district court in its discretion may authorize; or (2) be deemed a civil penalty by the
36 court and deposited with West Virginia as general revenues. In either case, any distribution
37 procedure adopted shall afford each consumer a reasonable opportunity to secure his appropriate
38 portion of the net monetary relief.

<u>§12-11-7.</u>	<u>Limitations</u>	<u>of</u>	<u>Action.</u>
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1 Any action to enforce any cause of action under this Act shall be forever barred unless
2 commenced within four years after the cause of action accrued. No cause of action
3 barred under existing law on the effective date of this Act shall be revived by this Act.

<u>§12-11-8.</u>	<u>Preemption.</u>
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1 Nothing in this Act shall be construed to restrict or preempt any State or local law that
2 provides protections against deceptive pricing methods, acts, or practices that are greater than
3 those set forth in this Act; imposing civil or criminal sanctions or penalties greater than those
4 imposed by this Act; or creating any public or private right of action related to deceptive pricing
5 methods, acts, or practices or any other unfair or deceptive methods, acts, or practices.

NOTE: The purpose of this bill is to create the Junk Fee Prevention Act.

Strike-throughs indicate language that would be stricken from a heading or the present law
and underscoring indicates new language that would be added.