

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

2ND SESSION, 41ST LEGISLATURE, ONTARIO
66 ELIZABETH II, 2017

Bill 190

**An Act to amend the Consumer Protection Act, 2002
to require suppliers to disclose an all-inclusive cost**

Mr. Y. Baker

Private Member's Bill

1st Reading December 12, 2017

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill amends the *Consumer Protection Act, 2002* by adding a new section 9.1 that requires all suppliers of goods or services to ensure that any information provided to a consumer regarding the cost of a good or service includes an all-inclusive cost. The all-inclusive cost is defined as the total of all amounts that a consumer will have to pay for the good or service including the harmonized sales tax and any other charges or fees. Suppliers will also be required to disclose the duration of a promotional discount on the price of goods or services. A new penalty scheme is created to deal with contraventions of the new section 9.1.

An Act to amend the Consumer Protection Act, 2002 to require suppliers to disclose an all-inclusive cost

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1 The *Consumer Protection Act, 2002* is amended by adding the following section:

Supplier required to disclose all-inclusive cost

9.1 (1) A supplier who offers, displays or advertises a good or service in the course of a consumer transaction shall ensure that any information provided to a consumer regarding the cost of the good or service includes an all-inclusive cost.

All-inclusive cost

(2) For the purposes of subsection (1), all-inclusive cost is the total of all amounts to be paid by the consumer in consideration of the good or service including the price of the good or service, the harmonized sales tax and any other charges or fees.

Presentation of prices

(3) A supplier who displays, advertises or otherwise presents the price of a good or service alongside the all-inclusive cost of the good or service within the meaning of subsection (2), shall ensure that the all-inclusive cost is displayed, advertised or presented using a font size that is equal to or larger than the font size used for the price of the good or service.

Promotional price

(4) If the price of a good or service is reduced as a result of a promotional discount, the supplier shall ensure that the duration of the promotional discount is clearly communicated to the consumer using a font size that is not smaller than half of the size of the font used to offer, display or advertise the price of the good or service and its all-inclusive cost.

Exemption

(5) The Minister may make regulations exempting any supplier, goods or services, or any class of goods or services from the application of this section.

2 (1) Subclause 116 (1) (b) (i) of the Act is repealed and the following substituted:

- (i) in respect of Part II, Consumer Rights and Warranties, subsection 9.1 (1), (3) or (4), subsection 10 (1), section 12, subsections 13 (2) and (7) and subsections 13.1 (1) and (2),

(2) Subsection 116 (5) of the Act is amended by adding “Subject to subsection (5.1),” at the beginning.

(3) Section 116 of the Act is amended by adding the following subsections:

Notice of contravention

(5.1) The Director may issue a notice of contravention to a supplier who fails to comply with subsection 9.1 (1), (3) or (4) specifying the particulars concerning the contravention and the supplier must comply with the requirements set out in the notice within 30 days.

Penalties

(5.2) A supplier who fails to comply with the requirements set out in the notice of contravention issued under subsection (5.1) within 30 days and who is convicted of an offence is liable to pay a fine determined as follows:

1. For a corporation that employs one to four employees or an individual, a fine of not more than \$150 plus 100 per cent of the all-inclusive cost of the highest priced good or service that was not in compliance with subsection 9.1 (1), (3) or (4).
2. For a corporation that employs five to 100 employees, a fine of not more than \$1500 plus 100 per cent of the all-inclusive cost of the highest priced good or service that was not in compliance with subsection 9.1 (1), (3) or (4).
3. For a corporation that employs 101 to 499 employees, a fine of not more than \$10,000 plus 100 per cent of the all-inclusive cost of the highest priced good or service that was not in compliance with subsection 9.1 (1), (3) or (4).

4. For corporation that employs 500 or more employees, a fine of not more than \$25,000 plus 100 per cent of the all-inclusive cost of the highest priced good or service that was not in compliance with subsection 9.1 (1), (3) or (4).

Review of offence

(5.3) A supplier who has been convicted of an offence for contravening subsection 9.1 (1), (3) or (4) and fined in accordance with subsection (5.2) may make a written request to the Tribunal for a hearing to review the facts of the alleged contravention or the amount of the penalty within 30 days after receiving a notice of fine from the Director.

Fine stayed during hearing

(5.4) If the supplier makes a request for a hearing in accordance with subsection (5.3), the Tribunal shall hold a hearing and the supplier is not required to pay the fine until the Tribunal makes a decision under subsection (5.5).

Powers of Tribunal

- (5.5) After holding the hearing, the Tribunal may,
- (a) confirm the contravention and the fine;
 - (b) set aside the contravention and the fine; or
 - (c) confirm the contravention but impose a lower fine.

Factors to consider

- (5.6) In imposing a fine on a supplier that is convicted of an offence for contravening subsection 9.1 (1), (3) or (4), the Director and the Tribunal shall take into consideration,
- (a) the business size and the ability of the supplier to pay the fine;
 - (b) whether or not the fine will serve as an effective deterrent against further failures to comply with the requirements of subsection 9.1 (1), (3) or (4);
 - (c) the degree to which the offered, displayed or advertised price misleads the consumer about the all-inclusive cost;
 - (d) the number of similar offences already committed by the supplier; and
 - (e) the value of the good or service underlying the offence.

Commencement

3 This Act comes into force one year after the day it receives Royal Assent.

Short title

4 The short title of this Act is the *What You See is What You Pay Act (Consumer Protection Amendment), 2017.*