

*Klobuchar-MORAN Substitute*



AMENDMENT NO. \_\_\_\_\_

Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.**

**S. 2498**

To prohibit unfair and deceptive advertising of prices for hotel rooms and other places of short-term lodging, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Ms. KLOBUCHAR (for herself and Mr. MORAN)

Viz:

1 Strike all after the enacting clause and insert the following:  
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hotel Fees Transparency Act of 2024”.  
5

6 **SEC. 2. PROHIBITION ON UNFAIR AND DECEPTIVE ADVERTISING OF HOTEL ROOMS AND OTHER SHORT-TERM RENTAL PRICES.**  
7  
8

9 (a) PROHIBITION.—

10 (1) IN GENERAL.—It shall be unlawful for a  
11 covered entity to display, advertise, market, or offer

1 in interstate commerce, including through direct of-  
2 ferings, third-party distribution, or metasearch refer-  
3 rals, a price for covered services that does not clear-  
4 ly, conspicuously, and prominently—

5 (A) display the total services price, if a  
6 price is displayed, in any advertisement, mar-  
7 keting, or price list wherever the covered serv-  
8 ices are displayed, advertised, marketed, or of-  
9 fered for sale;

10 (B) disclose to any individual who seeks to  
11 purchase covered services the total services  
12 price at the time the covered services are first  
13 displayed to the individual and anytime there-  
14 after throughout the covered services pur-  
15 chasing process; and

16 (C) disclose, prior to the final purchase,  
17 any tax, fee, or assessment imposed by any gov-  
18 ernment entity, quasi-government entity, or  
19 government-created special district or program  
20 on the sale of covered services.

21 (2) INDIVIDUAL COMPONENTS.—Provided that  
22 such displays are less prominent than the total serv-  
23 ice price required in paragraph (1), nothing in this  
24 Act shall be construed to prohibit the display of—

1 (A) individual components of the total  
2 price; or

3 (B) details of other items not required by  
4 paragraph (1).

5 (3) INDEMNIFICATION PROVISIONS.—Nothing  
6 in this section shall be construed to prohibit any cov-  
7 ered entity from entering into a contract with any  
8 other covered entity that contains an indemnification  
9 provision with respect to price or fee information  
10 disclosed, exchanged, or shared between the covered  
11 entities that are parties to the contract.

12 (b) ENFORCEMENT.—

13 (1) ENFORCEMENT BY THE COMMISSION.—

14 (A) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
15 TICES.—A violation of subsection (a) shall be  
16 treated as a violation of a rule defining an un-  
17 fair or deceptive act or practice prescribed  
18 under section 18(a)(1)(B) of the Federal Trade  
19 Commission Act (15 U.S.C. 57a(a)(1)(B)).

20 (B) POWERS OF THE COMMISSION.—

21 (i) IN GENERAL.—The Commission  
22 shall enforce this section in the same man-  
23 ner, by the same means, and with the  
24 same jurisdiction, powers, and duties as  
25 though all applicable terms and provisions

1 of the Federal Trade Commission Act (15  
2 U.S.C. 41 et seq.) were incorporated into  
3 and made a part of this Act.

4 (ii) PRIVILEGES AND IMMUNITIES.—  
5 Any person who violates this section shall  
6 be subject to the penalties and entitled to  
7 the privileges and immunities provided in  
8 the Federal Trade Commission Act (15  
9 U.S.C. 41 et seq.).

10 (iii) AUTHORITY PRESERVED.—Noth-  
11 ing in this section shall be construed to  
12 limit the authority of the Commission  
13 under any other provision of law.

14 (2) ENFORCEMENT BY STATES.—

15 (A) IN GENERAL.—If the attorney general  
16 of a State has reason to believe that an interest  
17 of the residents of the State has been or is  
18 being threatened or adversely affected by a  
19 practice that violates subsection (a), the attor-  
20 ney general of the State may, as *parens patriae*,  
21 bring a civil action on behalf of the residents of  
22 the State in an appropriate district court of the  
23 United States to obtain appropriate relief.

24 (B) RIGHTS OF THE COMMISSION.—

25 (i) NOTICE TO THE COMMISSION.—

1 (I) IN GENERAL.—Except as pro-  
2 vided in subclause (III), the attorney  
3 general of a State, before initiating a  
4 civil action under subparagraph (A)  
5 shall notify the Commission in writing  
6 that the attorney general intends to  
7 bring such civil action.

8 (II) CONTENTS.—The notifica-  
9 tion required by subclause (I) shall in-  
10 clude a copy of the complaint to be  
11 filed to initiate the civil action.

12 (III) EXCEPTION.—If it is not  
13 feasible for the attorney general of a  
14 State to provide the notification re-  
15 quired by subclause (I) before initi-  
16 ating a civil action under subpara-  
17 graph (A), the attorney general shall  
18 notify the Commission immediately  
19 upon instituting the civil action.

20 (ii) INTERVENTION BY THE COMMIS-  
21 SION.—The Commission may—

22 (I) intervene in any civil action  
23 brought by the attorney general of a  
24 State under subparagraph (A); and

25 (II) upon intervening—

- 1 (aa) be heard on all matters  
2 arising in the civil action; and  
3 (bb) file petitions for appeal.

4 (C) INVESTIGATORY POWERS.—Nothing in  
5 this paragraph may be construed to prevent the  
6 attorney general of a State from exercising the  
7 powers conferred on the attorney general by the  
8 laws of the State to conduct investigations, to  
9 administer oaths or affirmations, or to compel  
10 the attendance of witnesses or the production of  
11 documentary or other evidence.

12 (D) ACTION BY THE COMMISSION.—When-  
13 ever a civil action has been instituted by or on  
14 behalf of the Commission for violation of sub-  
15 section (a), no attorney general of a State may,  
16 during the pendency of that action, institute an  
17 action under subparagraph (A) against any de-  
18 fendant named in the complaint in that action  
19 for a violation of subsection (a) alleged in such  
20 complaint.

21 (E) VENUE; SERVICE OF PROCESS.—

22 (i) VENUE.—Any action brought  
23 under subparagraph (A) may be brought  
24 in—

1 (I) the district court of the  
2 United States that meets applicable  
3 requirements relating to venue under  
4 section 1391 of title 28, United States  
5 Code; or

6 (II) another court of competent  
7 jurisdiction.

8 (ii) SERVICE OF PROCESS.—In an ac-  
9 tion brought under subparagraph (A),  
10 process may be served in any district in  
11 which—

12 (I) the defendant is an inhab-  
13 itant, may be found, or transacts  
14 business; or

15 (II) venue is proper under section  
16 1391 of title 28, United States Code.

17 (F) ACTIONS BY OTHER STATE OFFI-  
18 CIALS.—

19 (i) IN GENERAL.—In addition to civil  
20 actions brought by an attorney general  
21 under subparagraph (A), any other officer  
22 of a State who is authorized by the State  
23 to do so may bring a civil action under  
24 subparagraph (A), subject to the same re-  
25 quirements and limitations that apply

1 under this paragraph to civil actions  
2 brought by attorneys general.

3 (ii) SAVINGS PROVISION.—Nothing in  
4 this paragraph may be construed to pro-  
5 hibit an authorized official of a State from  
6 initiating or continuing any proceeding in  
7 a court of the State for a violation of any  
8 civil or criminal law of the State.

9 (3) REBUTTABLE PRESUMPTION OF COMPLI-  
10 ANCE.—In any action pursuant to paragraph (1) or  
11 (2), an intermediary or third-party online seller shall  
12 be entitled to a rebuttable presumption of compli-  
13 ance with the price display requirements of sub-  
14 section (a)(1), if such intermediary or third-party  
15 online seller—

16 (A) relied in good faith on information pro-  
17 vided to the intermediary or third-party online  
18 seller by a hotel or short-term rental, or agent  
19 acting on behalf of such hotel or short-term  
20 rental, and such information was inaccurate at  
21 the time it was provided to the intermediary or  
22 third-party online seller; and

23 (B) took prompt action to remove or cor-  
24 rect any false or inaccurate information about



1 the total services price after receiving notice  
2 that such information was false or inaccurate.

3 (c) PREEMPTION.—

4 (1) IN GENERAL.—A State, or political subdivi-  
5 sion of a State, may not maintain, enforce, pre-  
6 scribe, or continue in effect any law, rule, regulation,  
7 requirement, standard, or other provision having the  
8 force and effect of law of the State, or political sub-  
9 division of the State, that prohibits a covered entity  
10 from advertising, displaying, marketing, or otherwise  
11 offering, or otherwise affects the manner in which a  
12 covered entity may advertise, display, market, or  
13 otherwise offer, for sale in interstate commerce, in-  
14 cluding through a direct offering, third-party dis-  
15 tribution, or metasearch referral, a price of a res-  
16 ervation for a covered service that does not include  
17 each mandatory fee.

18 (2) RULE OF CONSTRUCTION.—This section  
19 may not be construed to—

20 (A) preempt any law of a State or political  
21 subdivision of a State relating to contracts or  
22 torts; or

23 (B) preempt any law of a State or political  
24 subdivision of a State to the extent that such  
25 law relates to an act of fraud, unauthorized ac-

1           cess to personal information, or notification of  
2           unauthorized access to personal information.

3           (d) DEFINITIONS.—In this Act:

4           (1) BASE SERVICES PRICE.—The term “base  
5           services price” —

6           (A) means, with respect to the covered  
7           services provided by a hotel or short-term rental,  
8           the price in order to obtain the covered services  
9           of the hotel or short-term rental; and

10          (B) does not include—

11           (i) any service fee;

12           (ii) any taxes or fees imposed by a  
13           government or quasi-government entity;

14           (iii) assessment fees of a government-  
15           created special district or program; or

16           (iv) any charges or fees for an optional  
17           product or service associated with  
18           the covered services that may be selected  
19           by a purchaser of covered services.

20          (2) COMMISSION.—The term “Commission”  
21          means the Federal Trade Commission.

22          (3) COVERED ENTITY.—The term “covered entity”  
23          means a person, partnership, or corporation  
24          with respect to whom the Commission has jurisdic-

1       tion under section 5(a)(2) of the Federal Trade  
2       Commission Act (15 U.S.C. 45(a)(2)), including—

3               (A) a hotel or short-term rental;

4               (B) a third-party online seller; or

5               (C) an intermediary.

6       (4) COVERED SERVICES.—The term “covered  
7       services” means the temporary provision of a room,  
8       building, or other lodging facility.

9       (5) HOTEL.—The term “hotel” means an es-  
10      tablishment that is—

11              (A) primarily engaged in providing a cov-  
12      ered service to the general public; and

13              (B) promoted, advertised, or marketed in  
14      interstate commerce or for which such estab-  
15      lishment’s services are sold in interstate com-  
16      merce.

17      (6) INTERMEDIARY.—The term “intermediary”  
18      means an entity that operates either as a business-  
19      to-business platform, consumer-facing platform, or  
20      both, that displays, including through direct offer-  
21      ings, third-party distribution, or metasearch referral,  
22      a price for covered services or price comparison tools  
23      for consumers seeking covered services.

24      (7) OPTIONAL PRODUCT OR SERVICE.—The  
25      term “optional product or service” means a product

1 or service that an individual does not need to pur-  
2 chase to use or obtain covered services

3 (8) SERVICE FEE.—The term “service fee”—

4 (A) means a charge imposed by a covered  
5 entity that must be paid in order to obtain cov-  
6 ered services; and

7 (B) does not include—

8 (i) any taxes or fees imposed by a  
9 government or quasi-government entity;

10 (ii) any assessment fees of a govern-  
11 ment-created special district or program;  
12 or

13 (iii) any charges or fees for an op-  
14 tional product or service associated with  
15 the covered services that may be selected  
16 by a purchaser of covered services.

17 (9) SHORT-TERM RENTAL.—The term “short-  
18 term rental” means a property, including a single-  
19 family dwelling or a unit in a condominium, coopera-  
20 tive, or time-share, that provides covered services  
21 (either with respect to the entire property or a part  
22 of the property) to the general public—

23 (A) in exchange for a fee;

24 (B) for periods shorter than 30 consecutive  
25 days; and

1 (C) is promoted, advertised, or marketed in  
2 interstate commerce or for which such prop-  
3 erty's services are sold in interstate commerce.

4 (10) STATE.—The term “State” means each of  
5 the 50 States, the District of Columbia, and any ter-  
6 ritory or possession of the United States.

7 (11) THIRD-PARTY ONLINE SELLER.—The term  
8 “third-party online seller” means any person other  
9 than a hotel or short-term rental that sells covered  
10 services or offers for sale covered services with re-  
11 spect to a hotel or short-term rental in a transaction  
12 facilitated on the internet.

13 (12) TOTAL SERVICES PRICE.—The term “total  
14 services”—

15 (A) means, with respect to covered serv-  
16 ices, the total cost of the covered services, in-  
17 cluding the base services price and any service  
18 fees; and

19 (B) does not include—

20 (i) any taxes or fees imposed by a  
21 government or quasi-government entity;

22 (ii) any assessment fees of a govern-  
23 ment-created special district or program;

24 or

1                   (iii) any charges or fees for an op-  
2                   tional product or service associated with  
3                   the covered services that may be selected  
4                   by a purchaser of covered services.

5           (e) EFFECTIVE DATE.—The prohibition under sub-  
6 section (a) shall take effect 450 days after the date of  
7 the enactment of this Act and shall apply to advertise-  
8 ments, displays, marketing, and offers of covered services  
9 of a covered entity made on or after such date.