Owen, Nicholson and Nieto in Law360: Steps for Companies To Comply With Colorado Deceptive Pricing Law

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Haynes Boone Partner Brent Owen and Associates Annie Nicholson and Mia Nieto authored an article for *Law360* discussing Colorado's HB25-1090, "Protections Against Deceptive Pricing Practices," which is a new consumer protection law that aims to discourage deceptive trade practices.

Read an excerpt below.

Colorado passed a new consumer protection law, Protections Against Deceptive Pricing Practices, which will take effect on Jan. 1, so businesses will need to ensure compliance to avoid legal headaches.

H.B. 25-1090, regarding protecting against deceptive pricing practices, aims to eliminate hidden fees by requiring the disclosure of the total price of a good, service or property up front.[1]

Though H.B. 25-1090 focuses on landlord-tenant pricing practices, it regulates drip pricing more broadly, and thus applies to a wide range of Colorado businesses.[2] This article discusses the fast approaching change in law, other similar state regulations, and what Colorado businesses can do to comply.

Change in Law
Building on the existing law, H.B. 25-1090 governs landlord obligations for setting and communicating rental prices. Under the law, when advertising a property, a landlord must include all mandatory fees in a single, total price that is more prominent than other pricing information.

A landlord may still pass-through third-party vendor fees to tenants, by either a 2% markup of the amount that the landlord was billed, or by an amount of less than $10 per month — but not both.

Additionally, this law prohibits a landlord from charging their tenant certain fees. Landlords cannot charge utility fees greater than the utility provider's charge; fees related to property taxes; rental processing fees; late fees on anything other than rent; or common area maintenance fees.

A landlord also cannot charge any fee that increases by more than 2% year-over-year, except for the actual cost of certain utilities.

Critically, H.B. 25-1090 governs more than the landlord-tenant relationship. It not only covers how landlords can market property, but it also covers a much wider range of businesses that market goods or services to Colorado consumers.

This new law calls for a broad interpretation and applies to any person offering, displaying or advertising prices for goods, services or property.[3] There are two main price disclosure

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requirements for businesses. Businesses must disclose the total price as a single number, and disclose this single number clearly and conspicuously.

The first disclosure requirement is the total price requirement. The total price means the maximum total of all amounts a consumer must pay. This includes all fees and charges that a consumer must pay to purchase, enjoy or use the item or service, or that the consumer cannot reasonably avoid. The total price excludes government charges (e.g., taxes and fees payable to the government) and shipping charges unless the business chooses to include them.

A business must present the total price as a single number that is more prominent than other prices.

The second disclosure requirement is the clear and conspicuous requirement. The following chart includes the format-specific requirements and the more general requirements that apply to all disclosures, regardless of the format of the offer, display or advertisement.

Read the full article from *Law360* here.

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