

20 July 2020

SENATOR AQUILINO PIMENTEL III

Chairperson

Committee on Trade, Commerce, and Entrepreneurship

Senate of the Philippines

GSIS Financial Complex, Roxas Boulevard

Pasay City, Philippines

Dear **Senator Pimentel**:

We are pleased to submit the Department's position on Senate Bill No. 546, entitled:

An Act Prohibiting Merchandising Stores and Service Establishments from Charging More Than the Cash Retail Price of Goods and Services Purchased With Credit Cards and Prescribing Penalties For Any Violation Thereof

This is without prejudice to the Department's submission of additional inputs.

Very truly yours,


RAMON M. LOPEZ
Secretary



OFFICE OF THE SECRETARY

DTI Position on

Senate Bill No. 546

An Act Prohibiting Merchandising Stores and Service Establishments from Charging More Than the Cash Retail Price of Goods and Services Purchased With Credit Cards and Prescribing Penalties For Any Violation Thereof

The Department supports the objective of the bill in prohibiting merchandising stores and service establishments from charging consumers more than the cash retail price of goods and services purchased and availed of with credit cards. The proposed measure strengthens Department Administrative Order (DAO) No. 10¹ issued by the Department of Trade and Industry on 18 October 2006 which prohibits the imposition of a surcharge on the use of credit/ATM or debit cards for payment of purchases of consumer products and services.

The Department expresses its views on certain provisions of the bill, to wit:

Proposed Provision	DTI Position
Section 1. It shall be unlawful for any merchandising store or service establishment to charge the customers more than the actual credit retail price of the goods and services purchased when such purchase is done with the use of a credit card and/or to list bargain sale items and services to cash purchases.	<ul style="list-style-type: none"><li data-bbox="829 913 1399 1489">• The Department supports the proposed provision since it is aligned in accordance with Chapter 4, Article 81 of Republic Act (RA) No. 7394 or the Consumer Act of the Philippines, which states that: <i>"Article 81. Price Tag Requirement. — It shall be unlawful to offer any consumer product for retail sale to the public without an appropriate price tag, label or marking publicly displayed to indicate the price of each article and said products shall not be sold at a price higher than that stated therein and without discrimination to all buyers"</i><li data-bbox="829 1512 1399 1910">• We also stress that retailers should not impose different prices for cash and credit card payments as it is in violation of DAO No. 10, specifically Section 5, which states that: <i>"Section 5. Prohibition Against Surcharging by Retailers. — All retailers who honor/accept credit/ATM/debit cards for payment shall not require the cardholders to pay a surcharge,</i>

¹ Reiterating the Rules on Price Tags/Labels and Providing Prohibition Against the Imposition of a Surcharge, Extra Charge or Additional Charge in the Use of Credit/Automated Teller Machine (ATM)/Debit Cards for Payment of Purchases of Consumer Products or Services

	<p><i>extra charge, or additional charge over and above the price tag on the consumer goods and services."</i></p> <ul style="list-style-type: none"> • We recommend the alignment of the language or terminology of the bill with Chapter 4, Article 81 of the Consumer Act of the Philippines. • We also suggest using the term "actual retail price" instead of "actual credit retail price." This is in line with DTI's proposal to amend Article 81 of the Consumer Act of the Philippines to indicate that the price should not be higher than the "actual retail price" of goods and services. • We note that should retailers opt to offer discounts to consumers paying in cash, they may do so as part of an in-store sales promotion. • However, the DTI maintains that it will still be subject to rules on sales promotion permits and a readable and visible notice. Without a sales promotion permit, stores cannot discriminate against those who cannot pay in cash upon purchase.
<p>Section 2. Any person who shall violate the provision of this Act shall be punished with imprisonment of not less than six (6) months but not more than one (1) year or a fine of not less than Twenty Thousand Pesos (PHP20,000.00) but not more than One Hundred Thousand Pesos (PHP100,000.00) or both at the discretion of the court.</p>	<ul style="list-style-type: none"> • We pose no objection to the provision and note that the proposed penalties to violators are higher than the fine and/or period of imprisonment imposed by DAO No. 10. • We also recommend a review of the penalties every five (5) years for appropriateness.

The DTI suggests the inclusion of additional provisions regarding the drafting of the Implementing Rules and Regulations (IRR) to clarify the following, among others:

- The agency or agencies tasked to draft the IRR;
- The role of DTI and other agencies/LGUs in monitoring and receiving complaints;²
- The imposition of penalties (e.g., per violation); and
- The period//instance for the suspension/cancellation of permit to operate.

Karyatin Chay

Bureau of Trade and Industrial Policy Research

21 February 2020

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/avmr *MP*

² The agency concerned regarding complaints on banks, non-bank financial institutions, pawnshops, and credit cards is the Bangko Sentral ng Pilipinas (BSP).