



The Only Guide You'll Need for Surcharging

According to The Nilson Report, U.S. Merchants are paying nearly \$90 billion annually in fees on card transactions that amount to about \$6 trillion. As more transactions shift away from lower cost charge cards and checks, the fees paid by merchants will continue to increase.

Consumers and businesses alike are hooked on credit cards with high-value rewards programs. Some 92% of all U.S. credit card purchase volume is charged on rewards cards according to estimates from the Mercator Advisory Group, Inc, a payments research and consulting firm.

The most generous credit card reward programs carry the highest fees. Therefore the high fees paid by merchants on these transactions pay for the rich rewards offered by the issuing banks. In other words, your margins are paying for someone else's cashback and travel rewards.

The Proof is in the Chart

This chart by the Kansas City Federal Reserve Bank clearly shows that the interchange fees for rewards credit cards are significantly higher than traditional or non-rewards credit cards.



Merchants Go to Court for Relief

Tensions between the card networks and merchants are nothing new. Major retailers and other merchants fed up with the ever-increasing fees and restrictive rules filed a class-action lawsuit against VISA and Mastercard to win relief for their beleaguered margins.

After years of fighting, a decision by the U.S. Supreme Court required the card associations (VISA and Mastercard) to change their rules to allow merchants the option to add a fee or surcharge to each credit card transaction.

Some Hurdles to Surcharging

Limits on the Types of Cards that Can be Surcharged

Surcharge fees can only be added to credit card transactions and not to debit or prepaid cards. Signature debit card transactions run as credit are still debit transactions and are exempt from surcharging.

State Laws

While the Supreme Court ruling and card association rule changes permit surcharging, there are four states that have laws prohibiting surcharging. At the time of writing this guide, the states that prohibit surcharging are:

- Colorado
- Connecticut
- Kansas
- Massachusetts

Surcharge laws generally apply to consumer-facing businesses. If your business is selling to other businesses, you can add a surcharge fee to all credit card transactions. This strategy applies even in states where consumer surcharging is prohibited. Before proceeding with surcharging, we recommend that you contact your state's Attorney General to see what is permissible in your state.

State-Specific Requirements

At the time of this writing, Maine and New York require additional disclosures. Other states have other requirements. See our State-by-State Guide to Surcharging for more information.

State regulations change frequently, we recommend you do your own research regarding the current surcharging requirements in your state.



Other Fee Based Options

The focus of this guide is on surcharging, however there are other fee-based payment models that may be a better solution for certain businesses and industries.

Service Fee - Governments & Educational Institutions

Service fees are subject to VISA rule ID #0029275 which spells out how governments and educational institutions can charge credit and debit cardholders a fee on each transaction. Service fees are either a fixed dollar amount or a percent of the transaction fee for payment of taxes, fines, fees, tuition, etc.

Convenience Fees

A convenience fee enables the merchant to charge a flat fee that is levied for the privilege of paying for a product or service using an alternative payment channel, or a payment method that is not standard for the merchant. Under the convenience fee option, the merchant collects the fee and uses the fee to offset their processing costs.

Movie theaters, for example, typically sell tickets face-to-face in the box office. However, if a movie theater gives customers the alternative option of paying by phone or online using a credit card, then that theater could charge a "convenience fee." So technically, the customer is not paying for using their credit card, but for the privilege of using the pay-by-phone or online option.

Site Fee

Site Fees are an alternative fee-based option for businesses using the IntelliPay platform. IntelliPay adds either a percentage or flat fee to a consumer transaction using their software or technology. IntelliPay uses site fees to pay for software, maintenance, processing, and customer support making the site fee option a revenue neutral solution for the merchant.

Surcharges and Cash Discounts Are Not the Same Thing

In those states where surcharging is prohibited, merchants can offer a cash discount to their customers. Understanding the difference between a cash discount and a surcharge is very important in terms of legality and compliance with your merchant agreement and card network rules.

Definitions

Surcharge

A surcharge is a charge added to the price of a good or service. Surcharge fees apply to transactions where the customer chooses the convenience of using a credit card.

Surcharges are a specific percentage of the total price of goods or services before taxes. Surcharge fees cannot exceed 4% or the merchants' effective rate. To calculate your effective rate, IntelliPay offers a free calculator [here](#).

Cash Discount

A compliant cash discount program requires a merchant to post and advertise credit prices. Credit prices include the costs of processing credit cards. When a customer pays with cash or in-store gift card, there is a decrease in the price taken at point-of-sale.

Legal cash discount programs present a clear receipt detailing the fee or cash discount amount. Cash discount programs are not credit card surcharges because they do not levy a fee added to a credit card transaction.

Visa provided this explanation:

“A discount for cash is different from a surcharge. The rule states the posted price must be for cards; however, merchants can provide a lower price for cash acceptance. Discounts for cash are allowed by Visa. However, merchants are not permitted to post a price for cash, and then charge a higher price for cards.”

The authority on cash discounting is in the Durbin amendment of the Landmark Dodd-Frank Act. The amendment states that businesses are permitted to offer a discount to customers as an incentive and to encourage customers to pay by alternative methods other than credit/debit cards.

Such alternative methods include checks or cash to receive a discount applied at the time of sale.



When A Cash Discount Program is Non-Compliant

Cash discount programs are non-compliant when they post cash prices, but then add a fee at the point-of-sale. This type of cash discount program falls under card networks surcharging rules making the program non-complaint.

The Penalties are Severe

A non-complaint cash discount program risks fines and the loss of your merchant account. Fines start at around \$1,000 per occurrence and can increase up to \$25,000 per occurrence for repeat violations.

Implementing A Compliant Cash Discount Program

To implement a cash discount program, merchants need to address the confusion and questions from consumers and employees. A quick reference guide should be developed describing the program and guidelines.

Merchants must provide at least one notification before completing a sale that there is a fee applied to all purchases and a discount given for cash payments. We recommend notifications at the point-of-entry, and point-of-sale.

There is also a requirement for a verbal notification at point-of-sale. The verbal notification needs to use the correct language. For example, "Would you like to save (X amount) today by paying in cash or use your card?" This language indicates that the fee applies to all transactions. A best practice is for the merchant to have a quick reference guide handy to give to customers with additional questions.

Summary

Cash discounting and surcharging can be complicated. A compliant program requires diligence and knowledge of ever-changing laws and regulations. Intelligent payment platforms like IntelliPay helps merchants use surcharging to reduce or eliminate credit card processing fees in a 100% compliant way. For more information, contact an IntelliPay consultant at 855-877-6632 or email sales@intellipay.com.





DISCOVER



VISA

Card Association Requirements for Surcharging

If it is legal for your business to impose a surcharge fee, there is still more to be done. You can start by looking at the cards you accept.

Does your business accept both VISA and Mastercard?
Does your business accept American Express or Discover cards?

Each card network has specific rules for merchants charging a surcharge fee, including not discouraging customers from using their card over other brands. You will need to meet the guidelines for each specific card brand.

Here is a list of typical card network rules, it is recommended you check with each card brand you accept for their current rules.

1. Notification requirement

Thirty-days before beginning to surcharging, you must notify the association and your ISO/merchant account provider. American Express does not have the notification requirement if you comply with their other guidelines.

2. Surcharge Fee is limited to your effective rate

You can only recoup your effective rate up to 4%. IntelliPay has a free online calculator to help you determine your effective rate. <https://intellipay.com/surcharge-calculator/>

3. Display notices

You will need to post notices at the point-of-entrance and the point of sale. Ecommerce sites must post a notice on the checkout page.

VISA Approved signage can be downloaded here: <https://usa.visa.com/dam/VCOM/download/merchants/sample-surcharge-disclosure-signage.pdf>

4. Surcharge fee must be on a separate line

The surcharge fee must be a line item on the receipt. American Express is the only exception. The surcharge fee needs to be included in the network authorization request.

5. Choose between brand-level or product level surcharges.

Select one or the other - you can't do both.

Definitions: Brand and Product Level Surcharges

A **brand level surcharge** is one where the merchant charges the same percentage on all credit cards. A **product level surcharge** is one where the merchant imposes a surcharge on a particular credit product. In both circumstances, the level of the surcharge is subject to a cap.

Source: Mastercard U.S.

What are the rules for “brand level” surcharges?

- The surcharge must be the same for all credit card transactions of that brand, regardless of issuer.
- The surcharge must be no greater than the merchant’s average discount rate for a brand’s credit card transactions.
- The surcharge cannot exceed 4%.

What are the rules for “product level” surcharges?

- The surcharge must be the same for all transactions of that particular product, regardless of the card’s issuer.
- The surcharge must be no greater than the merchant’s average discount rate for credit card transactions of that particular product, minus the regulated debit interchange rate (currently 0.05% + \$0.22).
- The surcharge cannot exceed 4%.

Is Surcharging Right For Your Business?

Deciding to surcharge is not an easy decision. Surcharging can be complicated, and the rules and regulations are continually changing. Surcharging may be the right decision if your primary business is:

- B2B products, warehouse or distribution
- Charity or non-profit
- Business or professional services
- Consumer services
- Auto
- Legal
- Construction/restoration
- Towing
- Veterinary

You might NOT want to surcharge if:

- If a consumer can get a similar product or service for the same or lower price, and that merchant that doesn’t surcharge.
- Your typical transactions are higher dollar amounts. The higher ticket price, the more likely a surcharge fee will be an objection.

How to Get Started On Your Own

If you are interested in getting started with surcharging and doing it on your own, we've listed the steps below.

However, you might want to consider a processor who can handle the transactions automatically and ensure compliance down the road.



Surcharging Going it Alone

If you decided surcharging is right for you and your state permits surcharging, here are the steps to get started:

1. Notify the card networks. VISA and Mastercard have online forms to complete. VISA and Mastercard require 30 days' notice before you can add surcharge fees to credit card transactions.
2. Inform your acquiring bank of your intent to surcharge as well. Different banks have different procedures; most require 30 days' notice.
3. Decide whether you want to charge for only specific types of cards (such as rewards cards, which tend to carry higher costs for businesses) or for all cards issued under a brand. You must choose one or the other — you cannot charge a fee for all cards and an additional fee for card products which have higher processing costs.

Prepare your Business

You will need to prepare notification signs. These signs at the point-of-entrance and point-of-sale need to inform customers that you charge surcharge fees. VISA provides signage that you can print out and use.

Point of Sale. Surcharge fees need to appear as a separate item on receipts. In many cases, you will need to program your point-of-sale terminals to meet this requirement.

Update your website. Merchants who have an online store have to let customers know about surcharge fees on the first page of their website that references card brands.

Surcharge fees need to appear as a separate item on receipts. In many cases, you will need to program your point-of-sale terminals to meet this requirement.

If your business operates in Colorado, Connecticut, Kansas, or Massachusetts you cannot currently charge surcharge fees for in-state transactions. However, if you do business in multiple states, you can surcharge credit card transactions in states without a prohibition.

You Don't Have to Go it Alone

There are processing platforms that offer a complete turn-key surcharging solution that is 100% legal and card rules-compliant. IntelliPay's intelligent payment platform handles all the details, including card network notification and equipment set-up. The only thing you need to do is complete the application and post notifications on your website and in your business.

Surcharging FAQs

At this point, you may still have questions about surcharging. In this section we answer any of the more commonly asked merchant questions. If you still have questions after reading the FAQ's reach out to one of our surcharging experts at 855-872-6632 or sales@intellipay.com.

Q. Is it legal to add a surcharge to card payments?

A. Yes. A court ruling in 2013 made it possible to surcharge card transactions at the federal level. All major card brands permit surcharging if certain requirements are met. However, there are currently seven states that limit the practice.

Q. Which states limit surcharging?

A. Currently, there are four states; Colorado, Connecticut, Kansas, and Massachusetts. Merchants should consult with their legal counsel about the laws regarding adding surcharge fees for their state.

Q. Can a merchant assess a surcharge fee on debit card transactions when the cardholder using a debit card chooses "credit" on the point of sale terminal?

A. Under no circumstances is a merchant to surcharge a debit card. Many merchants believe that debit card transactions authorized by a signature are credit card transactions. This is not true. Debit cards can be authorized by a PIN or by a signature and are still debit card transactions and you cannot add a surcharge fee any debit transaction.

Q. Can a merchant pick and choose the card types to which they will add a surcharge?

A. Merchants must add the same surcharge fee to all credit card transactions. The surcharge fee applies to any card type, whether the card is a consumer card, rewards card, business card, corporate card, or purchase card.

Q. Will a merchant's current equipment and terminals need to change?

A. Yes. Our support team is ready to help you successfully transition to new equipment.

Q. What are the requirements for adding a surcharge fee?

A. Card network and issuing bank notifications at least 30 days before starting, plus the posting of signs and updating of terminals and websites.

Q. Is there anything else I need to do before I can start surcharging card transactions?

A. Possibly. Certain states have specific signage and other requirements surrounding surcharging. See our State-by-state surcharging guide.

Q. Will a merchant's current equipment and terminals need to change?

A. Yes. Terminals and software may require updates and other changes.

Q. What are the rules for surcharging when the customer is present?

A. For all retail face-to-face transactions, the merchant must disclose the surcharge fee at the point of sale meaning before the customer is charged, as well as on the receipt.

Q. What are the rules for charging a surcharge fee in online or ecommerce transactions?

A. Merchants must disclose that there will be a surcharge fee and the amount of the fee on their website before checkout. The surcharge fee must appear as a separate item on the receipt.

Q. What are the rules for charging a surcharge fee on MOTO transactions?

A. Merchants have to disclose their surcharge fee over the phone before the customer is charged. The surcharge fee must show up as a separate item on the receipt that is either emailed or mailed to the customer.

Additional Resources

[VISA Small Business Center](#)

[Mastercard Surcharging Rules](#)

[American Express Merchant Reference Guide](#)

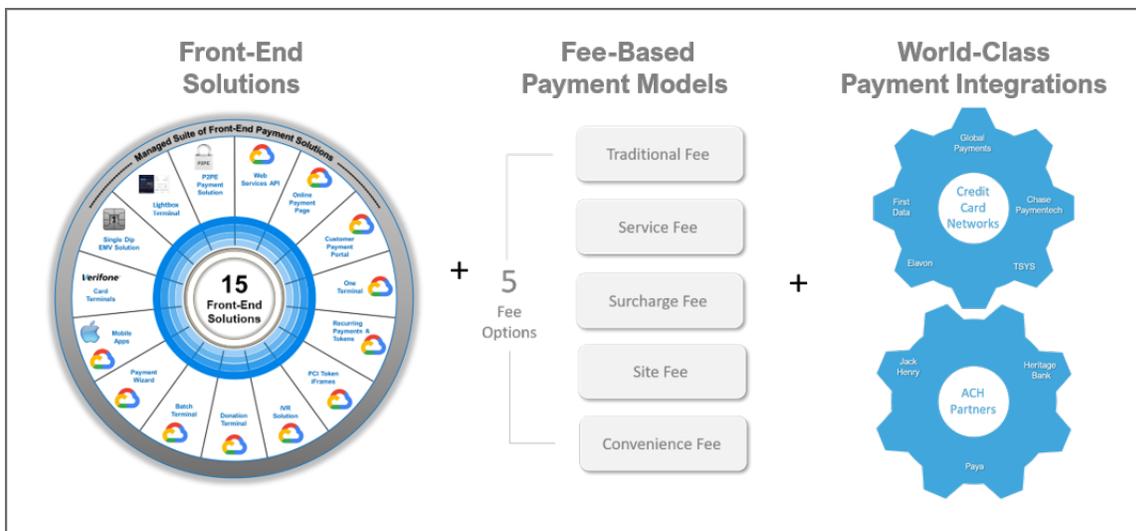
[Discover Merchant Acceptance Page](#)

The IntelliPay Advantage

Customizable and Scalable to Grow with Your Business

IntelliPay's payment platform is fully integrated into our payment gateway. We make it easy to accept credit, debit, ACH, or eCheck payments online by mobile, text, and IVR. Traditional and fee-based payment models give you a choice to shift processing costs to the cardholder or to have your business pay all the processing fees. Our advanced reporting and management tools help you manage multiple locations or departments and control your payments environment.

Our Google cloud-based platform and integrations with the largest providers in the industry, provide an unparalleled level of scalability and security that dynamically grows as you grow.



What We Do

IntelliPay streamlines the entire payment process. We offer an all-in-one solution from card terminals to mobile and online payments and API integration, all backed by a dedicated U.S. support team.

Our single payment platform eliminates patchwork integrations, standardizes equipment, and provides a single point of contact for support while unifying payment monitoring and reporting.

What We Won't Do

We won't lock you into exclusive merchant accounts, proprietary equipment, or a limited set of payment models. To learn more or to schedule a demo, email the IntelliPay sales team at sales@intellipay.com.