



Your State-by-State Surcharging Guide

Surcharging has been a controversial topic for several years. On the one hand, consumers don't want to be charged with additional fees but love the convenience and perks that come with their rewards credit cards. On the other hand, merchants face ever-rising fees to pay for rewards credit card perks by the banks issuing the rewards cards.

Over the years, some states have adopted laws that ban merchants from surcharging or charging consumers a fee for credit card use to their customers. These laws meant to protect consumers, but they can also hurt consumers with higher prices and retailers and other businesses in the process. In this guide, we'll break down why surcharging is important, as well as which states prohibit surcharging and which ones do not.

Definition of Surcharging

To categorize states into those that do or do not permit surcharging, we need to understand how states define surcharging.

Surcharging is defined as the act of a retailer or lessor charging their customers who pay with a credit card an additional fee. The additional amount imposed at the time of sale is considered a surcharge if it does not apply to customers who pay with cash, a check, or similar means. Merchants cannot profit from surcharges; they can only receive the exact money that they are losing at the point of purchase.

Fundamentally, it's a fee for a credit card transaction that customers must pay.

Why Do Merchants Impose Surcharges?

A merchant is anyone who accepts a card for payment. What isn't widely known is that merchants pay a fee for every credit card transaction.

Premium and reward credit cards carry higher interchange or transaction fees than traditional charge cards and other forms of payment. In recent years, rewards cards have become the preferred payment method for consumers and businesses. Since merchants need to accept payment cards, they had to absorb the rising fees as a cost of doing business until just recently. Recent court actions have given merchants some relief through surcharging.



Surcharging allows merchants to pass on the higher cost of credit card transaction fees to their customers who choose the convenience and perks reward credit cards offer. Merchants are limited to surcharge up to the amount of their historical processing fees.

State Laws

Over time some states enacted laws that prohibited surcharging. A 2017 supreme court ruling held that state “no-surcharge” laws restrict merchants’ constitutionally protected speech. This ruling made many existing state laws invalid.

California, Florida, Maine, Texas, New York, Oklahoma, Texas and Utah have anti-surcharging statues that are unenforceable due to recent court decisions. As of October 2021, only two states and one US teritroy actively prohibit surcharging, they are:

- Connecticut
- Massachusetts
- Puerto Rico



If a merchant is located in one of the two prohibiting states, they can offer a cash discount to incentivize consumers to pay with cash, debit, and in-store cards. More information about the differences between a surcharge and a cash discount can be found [here](#). All surcharging rules and regulations apply only to consumer businesses.

Two states require additional disclosures to surcharge credit card processing fees: Maine and New York. In both states merchants must post the cost of paying with cash and the cost of paying with a card in dollars and cents. These state requirements are on top of Visa, Mastercard, American Express, and Discover surcharging notification rules.

Note: If a merchant operates in multiple states, they can add a surcharge in states that allow the practice and a cash discount in the states with bans.

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Connecticut

According to Conn. Gen. Stat. §42-133ff:

Retailers are not permitted to impose a surcharge on a buyer who chooses to use a credit card for payment.

If the retailer claims to accept a bank credit card with a trade name as a means of payment, it shall accept any bank credit card with the given trade name.

This law does not prohibit retailers from requiring a minimum purchase for the acceptance of a credit card. Sellers who do this must disclose their minimum purchase policy orally or in writing at the point of purchase.

Additional Notes

There are additional limitations on travel service providers imposing a surcharge. To learn more, visit [this article](#).

The law also states that:

Sellers are not prohibited from offering a discount to encourage a buyer to pay by cash, debit card, check, or similar means.



Maine

Businesses in Maine can add a surcharge but need to disclose the Credit Card Price in dollars and cents whenever they post or quote their prices.



Massachusetts

According to Mass. Gen. Laws, Ann. ch. 140D, §28A:

Sellers are not permitted to impose a surcharge on a cardholder who uses a credit card instead of paying with cash, check, or other means.

The law also states that:

The card issuer may not prohibit a seller from offering a discount that encourages the use of cash, checks, or similar means.



Minnesota

Businesses can impose a surcharge if the customer is informed of the credit card fee with signage at the store entrance and verbally at the point of sale.



New York

Businesses can impose a surcharge but need to disclose the Credit Card Price in dollars and cents whenever they post or quote their prices.

Surcharging laws and card brand rules are continually changing. If you have any questions, you should consult with a professional about surcharging laws in the states where you do business. For additional resources about surcharging, visit IntelliPay.com, or contact one of our payment experts at sales@intellipay.com.

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