



## Surcharging FAQs Updated February 2024

### [What's Surcharging?](#)

#### **Q. What is a surcharge fee?**

**A.** A surcharge fee is an additional fee added by a merchant to a transaction when a customer uses a credit card for payment.

If you have other questions about surcharge fees or surcharging in general, talk to one of our [experts](#).

#### **Q. What is the difference between a surcharge and convenience fee?**

**A.** Convenience fees and surcharge fees are often used interchangeably, but they're not the same thing.

A surcharge is a fee charged to customers simply because they're using a credit card. The surcharge fee can be a fixed amount or a percentage of the transaction. Surcharge fees cannot exceed 3% (2% in Colorado) or the merchants' cost of processing. For example, New Jersey and New York have laws that limit the surcharge to the merchant's actual cost of processing. Adding a surcharge fee to a sale is prohibited in two states (Connecticut and Massachusetts) currently and applies only to transaction made using consumer credit cards. A merchant cannot add a surcharge fee to pre-paid, gift card, debit or other stored value cards.

Convenience fees are a fixed amount regardless of the size of the sale or transaction. Convenience Fees are only allowed on Card Not Present Transactions i.e. phone payments and online payments.

To discover whether a surcharge or convenience fee is right for your situation, talk to one of our [experts](#) today.

#### **Q. How can a merchant learn more about whether surcharging is right for their organization?**

**A.** Surcharging can be complex. Keeping up with the latest changes can be time consuming and remaining compliant difficult even for tech-savvy organizations. Organizations need a payment processing company that has experience in fee-based payment options. IntelliPay's intelligent platform eliminates complexity and ensures ongoing compliance. To learn more or get your questions answered, talk to one of our knowledgeable [experts](#).

### [Surcharge Transactions](#)

#### **Q. What types of cards can I add a surcharge fee?**

**A.** You can add a surcharge fee to all credit cards regardless of whether it is a consumer card, rewards card, business card, corporate card, or purchase card. It is prohibited to add a surcharge fee to pre-paid and debit cards.

#### **Q. Can I surcharge debit cards?**

**A.** No. Surcharging debit, pre-paid or stored value card transactions are prohibited.

## [Surcharge Transactions](#)

### **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.

To learn more about surcharging, talk to one of our expert [consultants](#).

### **Q. Can a merchant pick and choose the card types that are charged a surcharge fee?**

**A.** No. 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. Merchants cannot add surcharge fees to pre-paid, gift, other stored value and debit cards.

If you have other questions about surcharge fees or surcharging in general, talk to one of our knowledgeable [consultants](#).

## [Surcharge Law and Requirements](#)

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

**A.** The answer is yes to credit card payments, no to payments made with pre-paid cards or debit cards. In March 2017, the U.S. Supreme Court ruled in *Expressions Hair Design v. Schneiderman*, that state “no-surcharge” laws restrict constitutionally protected speech. Today, surcharging is legal in all but two states and one territory: Connecticut, Massachusetts and Puerto Rico.

### **Q. What states ban surcharging?**

**A.** Currently, only two states, Connecticut and Massachusetts, prohibit surcharging. However, rules and regulations regarding surcharging change frequently. New Jersey and New York passed laws in 2023 that limit surcharge fees to the merchant's cost of processing. An experienced card processing company like IntelliPay can provide merchants seeking to add a merchant surcharge the guide they need. Merchants considering adding a merchant surcharge should also consult with legal counsel about the laws regarding adding surcharge fees for their state. The surcharging ban does not apply to business (commercial) debit or credit cards.

### **Q. What are the rules for “brand level” surcharges?**

**A:** Here are the general requirements:

The surcharge fee must be the same for all credit card transactions of that brand, regardless of issuer.

The surcharge fee can be no greater than the merchant’s average discount rate for that brand’s credit card transactions. The surcharge fee cannot exceed 3% or the merchant’s cost of processing.

### **Q. What are the rules for “product level” surcharges?**

**A:** Here are general requirements:

The surcharge fee must be the same for all transactions of that particular credit card, regardless of who issued the card. The surcharge fee can not be greater than the merchant’s average discount rate for credit card transactions minus the debit interchange rate. The surcharge fee cannot exceed 3% or the merchant’s cost of processing.

## [Surcharging Requirements](#)

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

**A.** You must notify your payment processing thirty (30) days before beginning surcharging. Signage and notifications of the fee and amount, and the opportunity to choose not to pay the fee, must be provided.

Surcharging can be complex and staying compliant can be challenging for even the most technology savvy organizations. IntelliPay handles the complexity and ensures that your organization is always in compliance. To learn more, please reach out to one of our consultants.

### **Q. What do I need to do before I can start surcharging credit card transactions?**

**A.** Calculate your effective rate, notify your bank and card brands at least 30 days before you start surcharging, update equipment, etc. IntelliPay's experts and intelligent platform take the hassle out of surcharging by handling the myriad requirements behind the scenes. We also ensure you continuously comply with the latest rule changes and regulations. [Talk to us](#) today to learn how to get started with surcharging.

### **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. Will a merchant need to make changes to the accounting process or software for surcharging?**

**A.** Maybe. Merchants will need to talk to their accounting team, software provider and credit card processing company about how to account for surcharge fees.

### **Q. Does a merchant have to provide their customers notice before they start surcharging?**

**A:** Yes. Merchants will be required to place signs at the point of entry and point of service. IntelliPay will provide 1 point of entry and 1 point of service sign at no cost. We will also provide the verbiage for your e-commerce site.

### **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 all entrances, at the point of sale, before the customer is charged, and 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. We recommend having the customer check a box that they accept the fee and be given the option to choose a fee-less way to pay (cash, debit). 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.