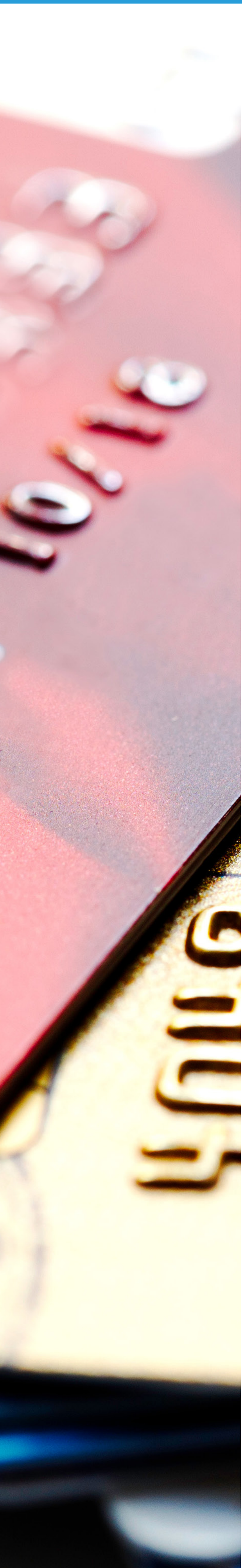
Your State By State **Surcharging** Guide

Updated October 2025



State-by-State Credit Card Surcharging Guide
Detailed Legal Status and Requirements by Jurisdiction
Updated October 2025

Purpose of This Guide
This reference guide provides detailed state-specific requirements for credit card surcharging. It is designed as a companion to our The Only Guide You'll Ever Need for Surcharging, which covers general surcharging concepts, business decision frameworks, implementation best practices, and card network rules.

What This Guide Covers:
- Specific state statutes and legal citations
- State-specific caps, disclosure requirements, and restrictions
- Recent state legislative changes and pending bills
- Detailed compliance requirements by jurisdiction
- Court decisions affecting state laws

What This Guide Does NOT Cover:
- General surcharging definitions and concepts
- Card network rules (Visa, Mastercard, etc.)
- Business decision frameworks and suitability
- Implementation best practices and equipment needs
- MDR calculations and processor selection
- Cash discounting as an alternative

These topics are covered in our "The Only Guide You'll Ever Need for Surcharing"
We recommend using these guides together for comprehensive surcharging guidance: the 'Only Guide' for business strategy and implementation, and this guide for state-specific requirements.

Quick Reference: Legal Status Summary

As of October 2025, credit card surcharging is legal in most U.S. states with varying requirements. This table provides a quick overview before detailed state-by-state analysis.

States Prohibiting Surcharging

Complete Ban (2 States + 1 Territory):

- **Connecticut:** Conn. Gen. Stat. §42-133ff
- **Massachusetts:** Mass. Gen. Laws ch. 140D, §28A
- **Puerto Rico**: Territory-wide prohibition

Note: California, Maine, and other states previously listed as prohibiting surcharging have had their bans overturned or significantly modified. See individual state sections for details.

States with Restrictive Caps

These states allow surcharging but impose caps below the federal 4% or Visa 3% limits:

- **Colorado:** 2% maximum cap
- **Nevada:** 1.5% maximum with documentation required for amounts above this

Important: These state caps override the more permissive federal and card network limits.

States with Enhanced Disclosure Requirements

These states require specific price disclosure formats beyond standard notification:

- **Maine:** Must show credit card price in dollars and cents
- **New York:** Must show both cash and credit prices in dollars and cents
- **Minnesota:** Must include fees in advertised prices unless avoidable, plus verbal notification at POS
- **Virginia:** Clear and conspicuous disclosure in total transaction price (effective July 1, 2025)

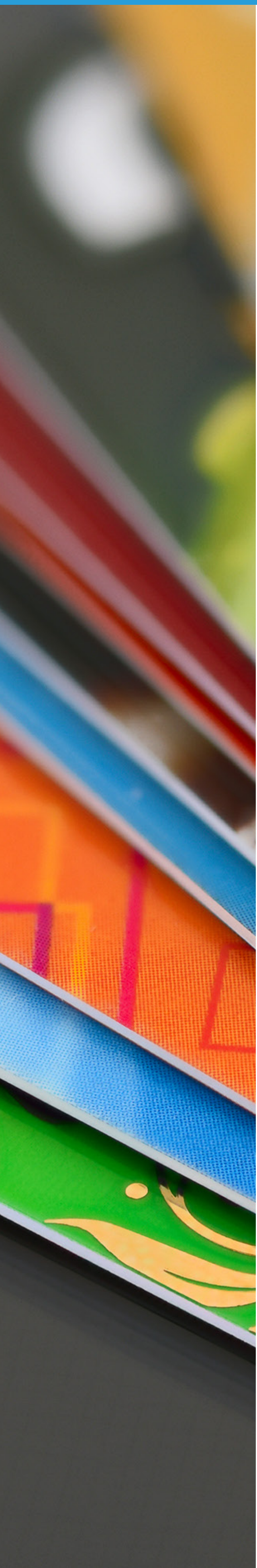
2025 Changes: Kansas and Minnesota both enacted significant changes effective January 1, 2025. Virginia added new requirements effective July 1, 2025.

States with Complex or Unclear Status

These states have statutory bans that have been challenged or modified by courts:

- **California:** SB 478 (2024) creates complexity around mandatory fees
- **Texas:** State ban exists but federal courts have created exceptions; AG opinions suggest enforcement
- **Florida:** Statute prohibits surcharging but deemed unenforceable by courts
- **Oklahoma:** Ban exists but federal courts ruled it unconstitutional

Caution: These states require extra legal diligence. Consult local counsel before implementing surcharging.



Detailed State-by-State Analysis

The following sections provide comprehensive details for each state, including statutory citations, specific requirements, recent changes, pending legislation, and court decisions affecting surcharging legality.

States Prohibiting Surcharging (Complete Bans)

Connecticut

Legal Status: PROHIBITED

Primary Statute: Connecticut General Statutes §42-133ff

Effective Date: Original statute enacted; significant amendments May 24, 2022 (Conn. Pub. Acts No. 22-104, §36)

Statutory Provisions:

- Retailers cannot impose a surcharge on buyers who choose to use a credit card
- If retailer accepts a bank credit card with a trade name, must accept all cards with that trade name
- Retailers may require minimum purchase amounts for credit card acceptance
- Minimum purchase policies must be disclosed orally or in writing at point of purchase
- Additional limitations apply to travel service providers

Cash Discount Exception:

Sellers are not prohibited from offering discounts to encourage payment by cash, debit card, check, or similar means. However, the 2022 amendments impose strict disclosure requirements:

- Listed price must be the credit card price
- Cannot advertise separate cash and credit prices (e.g., cannot post '$10 cash / $10.30 credit')
- Must advertise the credit price, then show discount for cash payment
- Example compliance: '$10.30 or $10 when paying with cash'

Enforcement:

Violations are deemed violations of the Connecticut Unfair Trade Practices Act (CUTPA), Conn. Gen. Stat. §42-110a et seq., which provides for:

- Government enforcement by Commissioner of Consumer Protection (administrative relief)
- Attorney General enforcement (court-ordered injunctive relief, restitution, civil penalties)
- Private lawsuits, including class actions
- Remedies include injunctive relief, compensatory damages, punitive damages, and attorney's fees

Legal Challenges:

Connecticut's surcharge ban has not been successfully challenged in federal courts. Unlike other states whose bans were overturned after Expressions Hair Design v. Schneiderman (2017), Connecticut's statute remains enforceable as of October 2025.

Recommendation: Merchants operating in Connecticut should implement compliant cash discount programs rather than attempting to surcharge. Work with legal counsel to ensure proper program structure and disclosure.

Massachusetts
Legal Status: PROHIBITED
Primary Statute: Massachusetts General Laws Annotated, Chapter 140D, Section 28A

Statutory Provisions:
Section 28A has two key subsections:
(a)(1) Card issuers cannot prohibit sellers from offering discounts to induce payment by cash, check, or similar means rather than credit card
(a)(2) No seller may impose a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means

Cash Discount Exception:
Section 28A(b) explicitly permits discounts for cash, check, or non-credit payment if:
- Discount is offered to all prospective buyers
- Availability is disclosed clearly and conspicuously
- Discount does not constitute a finance charge under Section 4 of the statute

Legal Challenges:
Like Connecticut, Massachusetts has maintained its surcharge ban despite First Amendment challenges in other states. As one of only two states with an active prohibition (plus Puerto Rico), Massachusetts law remains fully enforceable.

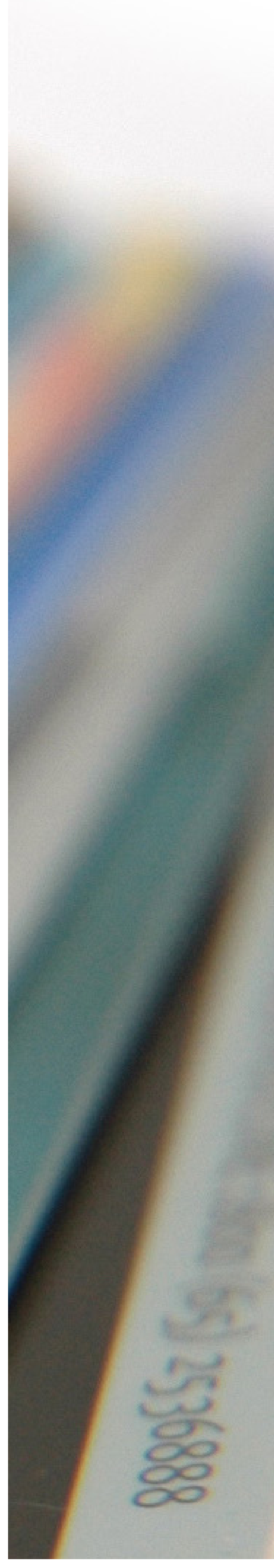
Legislative Activity:
According to industry sources, Massachusetts lawmakers have surveyed surcharging practices in other states but no bills to modify the prohibition have advanced as of October 2025.
Recommendation: Massachusetts merchants must use cash discount programs. The statute's explicit language permitting discounts while prohibiting surcharges creates a clear legal pathway for cost recovery through properly structured cash discount programs.

Puerto Rico
Legal Status: PROHIBITED
Jurisdiction: U.S. Territory

Legal Framework:
Puerto Rico maintains a territory-wide prohibition on credit card surcharging. Unlike Connecticut and Massachusetts, which have specific statutory citations, Puerto Rico's ban is embedded in consumer protection regulations.

Cash Discount Exception:
Cash discount programs are generally permitted as an alternative to surcharging, following similar frameworks to Connecticut and Massachusetts.

Note: Merchants operating in Puerto Rico should consult with local legal counsel for the most current regulatory framework, as territorial regulations may not be as readily accessible as state statutes.



States with Restrictive Surcharge Caps

These states allow surcharging but impose maximum caps below the federal 4% or Visa's 3% limits, creating more restrictive requirements than card network rules.

Colorado

Legal Status: PERMITTED WITH 2% CAP
Primary Statute: Senate Bill 21-091 (2021)
Effective Date: Signed June 2021

Key Provisions:

- Maximum surcharge: 2% of transaction amount OR merchant's actual cost of acceptance, whichever is lower
- Disclosure required before transaction
- Surcharge must be clearly disclosed to consumer
- Debit cards explicitly excluded from surcharging

Legislative History:

Colorado previously had an absolute ban on surcharging. SB 21-091 repealed that ban and replaced it with a regulatory framework. The bill was carefully crafted to mirror Visa and Mastercard surcharging rules while imposing a more restrictive 2% cap. Colorado's approach served as a template for other states considering surcharge regulation.
Important: Colorado's 2% cap is the most restrictive in the nation. Merchants must ensure their surcharge rate complies with Colorado law even if their actual costs or card network limits would allow higher rates.

Illinois

Legal Status: PERMITTED WITH 1% CAP
Primary Statute: Illinois Credit Card Surcharge Law

Key Provisions:

- Maximum surcharge: 1% of transaction amount OR actual processing fee, whichever is lower
- Must disclose surcharges for in-person, online, and phone transactions
- 2026 change: Effective January 1, 2026, interchange fees cannot be charged on taxes or gratuities if disclosed during authorization or settlement

Pending Legislation:

Illinois lawmakers have delayed implementation dates for certain interchange fee regulations. Merchants should monitor legislative updates for potential changes to the 1% cap or tax/gratuity rules.

Important: Illinois has the most restrictive surcharge cap in the country at 1%. Most merchants will find their actual processing costs exceed 1%, making this cap effectively limiting. The upcoming 2026 restriction on taxing surcharges on sales tax and tips further complicates compliance.

- **Surcharges cannot exceed merchant's actual cost**

Nevada

Legal Status: PERMITTED — SURCHARGES ALLOWED UP TO MERCHANT'S COST OF ACCEPTANCE

Key Provisions:

- Maximum surcharge: Merchant’s actual cost of acceptance, not to exceed 4% (federal limit)
- Typical maximum: Most merchants’ costs are between 1–1.5%, which creates a practical ceiling at that level

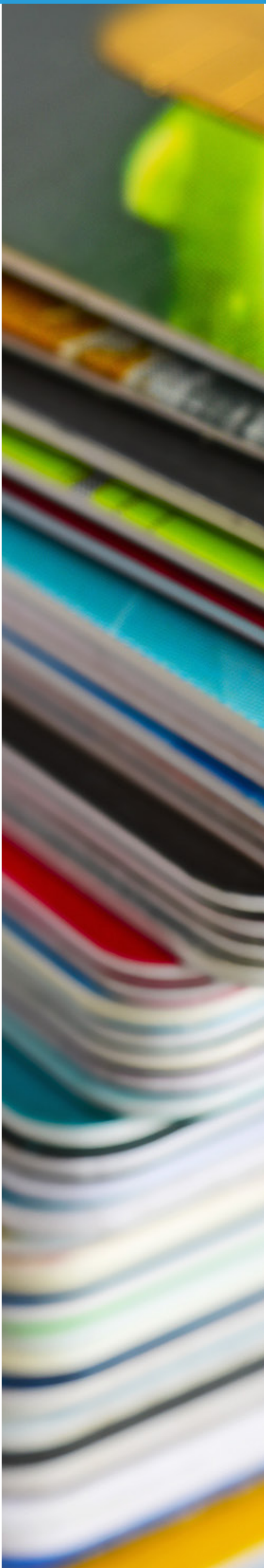
- Documentation requirement: Merchants must provide documentation upon request, particularly for surcharges above 1.5%

- Disclosure requirements: Must post surcharge notices at point of entry and point of sale, and itemize the surcharge on the receipt

- Debit card surcharges: Prohibited under federal law (Durbin Amendment)

Note: There is no statutory 1.5% cap under Nevada law, but the Nevada Attorney General advises consumers to request documentation for surcharges above 1.5%. This policy effectively creates a practical limit at that threshold, since few merchants maintain detailed cost records to justify higher surcharges.

Surcharges cannot exceed the merchant’s actual cost of card acceptance, and never more than 4% per federal regulation. Merchants violating these limits can face civil penalties (up to $500 per violation).



States with Enhanced Disclosure Requirements

These states allow surcharging but require specific disclosure formats beyond federal and card network rules.

Maine

Legal Status: PERMITTED WITH PRICE DISCLOSURE REQUIREMENTS

Key Requirements:

- Merchants must disclose the credit card price in dollars and cents
- Price disclosure required whenever prices are posted or quoted
- Both cash and credit prices should be clearly visible

Example Compliance: '$100 cash price / $103 credit card price' clearly posted at point of sale and on price tags

New York

Legal Status: PERMITTED WITH DUAL PRICE DISCLOSURE

Key Requirements:

- Must disclose credit card price in dollars and cents
- Cash and credit prices must both be displayed whenever prices are posted
- Prices must be shown with equal prominence
- Surcharges cannot exceed merchant's actual cost of acceptance

Note: New York's requirements are similar to Maine but with additional emphasis on equal prominence for both prices.

Minnesota

Legal Status: PERMITTED WITH AVOIDABILITY AND DISCLOSURE REQUIREMENTS

Effective Date: January 1, 2025 (new rules)

Key Requirements:

- Avoidability: Mandatory fees must be included in advertised prices unless consumers can reasonably avoid them
- Verbal notification: Merchants must verbally inform customers about surcharges at point of sale
- Conspicuous signage: Signs must be conspicuously posted on premises
- Maximum cap: Surcharges cannot exceed 5% (though card network rules limit most to 3%)

Enforcement:

- $500 per violation plus mandatory refunds

Legislative Background:

Minnesota House File 3438 created new deceptive trade practice rules prohibiting hidden fees at checkout. The law targets 'drip pricing' while allowing credit card surcharges if they meet the avoidability test.

Important: Minnesota's January 2025 changes represent one of the most significant surcharging law updates in recent years. The avoidability requirement means surcharges are only permissible if customers have real alternative payment options (cash, debit, ACH, etc.).

Virginia
Legal Status: PERMITTED WITH TRANSPARENCY REQUIREMENTS
Effective Date: July 1, 2025 (new disclosure requirements)
Key Requirements:

- Sellers must clearly and conspicuously disclose surcharge fees
- Disclosure must be included in the total price of the transaction
- Surcharge must be apparent before final purchase

Note: Virginia's July 2025 law change reflects the trend toward transparency rather than prohibition, following Minnesota and California's models.

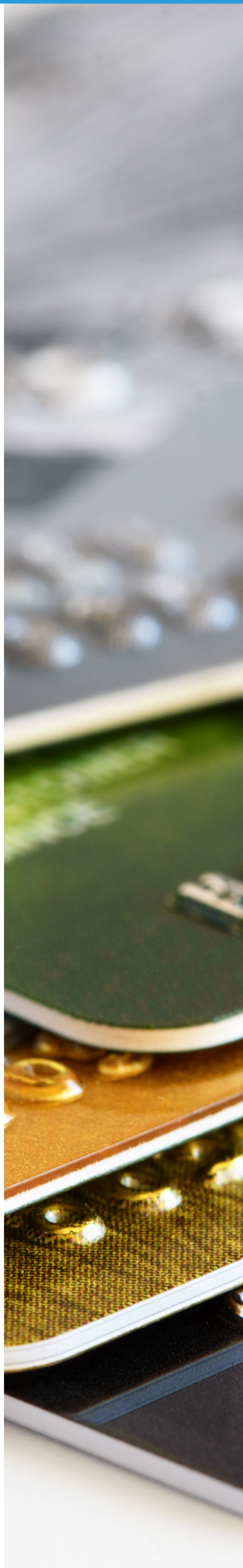
Kansas
Legal Status: PERMITTED AS OF JANUARY 1, 2025
Prior Status: Prohibited since 1986
Change Date: January 1, 2025

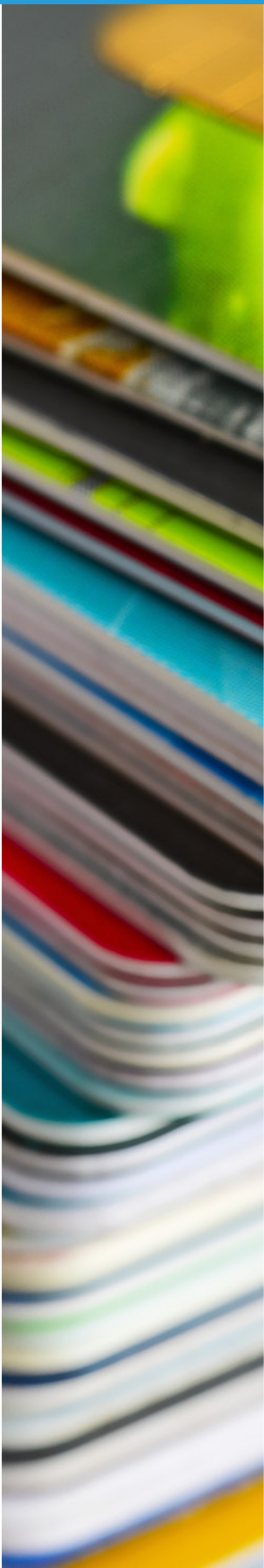
Legislative History:
Kansas's 1986 anti-surcharge law (K.S.A. 16a-2-403) was challenged in federal court and ruled unconstitutional in 2021 following the Supreme Court's Expressions Hair Design precedent. The state formally repealed the ban effective January 1, 2025.

Current Requirements:

- Notice required: Clear and conspicuous notice at point of sale or point of entry
- In-person: Signage at entrance and register
- Online: Disclosure before checkout
- Must comply with card network rules (Visa 3%, Mastercard 4%)

Important: Kansas merchants who could not surcharge prior to 2025 now have this option, but must ensure full compliance with both state notice requirements and card network rules.





States with Complex or Contested Legal Status
These states have statutory bans that have been challenged in courts or modified by subsequent legislation, creating legal complexity for merchants.

California
Legal Status: COMPLEX - Historically banned, but recent legislation creates nuanced requirements
Historical Ban: California Civil Code §1748.1 (ruled unconstitutional)
Current Law: Senate Bill 478 (effective July 1, 2024)

Legal History:
California's original surcharge ban (Civil Code §1748.1) was challenged following the U.S. Supreme Court's decision in Expressions Hair Design v. Schneiderman (2017). The Ninth Circuit found California's ban unconstitutional as it restricted commercial speech.
Senate Bill 478 (2024):

SB 478 addresses 'drip pricing' by requiring all mandatory fees to be included in advertised prices. Key provisions:
- All mandatory fees must be in advertised prices
- Fees that consumers can avoid are exempt from inclusion requirement
- Credit card surcharges are considered avoidable if alternative payment methods exist

Attorney General Guidance:
The California AG's office has issued guidance stating that SB 478 applies only to mandatory fees. Since credit card surcharges can be avoided by using debit, cash, or other payment methods, they are generally permissible if properly disclosed.

Current Status:
Surcharging is effectively permitted in California if:
- Alternative payment methods are offered (making the fee avoidable)
- Surcharge is clearly disclosed before checkout
- Compliance with card network rules

Recommendation: California's legal framework is complex. Merchants should work with legal counsel to ensure compliance with both the spirit of SB 478 and card network requirements. The avoidability of surcharges is key to legality.

Texas

Legal Status: CONTESTED - State ban exists but federal court rulings create exceptions
State Statute: Texas Finance Code §339.001 (prohibits surcharges)
Legal Conflict: Texas law prohibits surcharges, but federal courts have challenged this ban:

- Federal courts have ruled similar bans violate First Amendment
- Texas Attorney General issued opinion (KP-0257) asserting the law remains enforceable
- Many Texas businesses now surcharge, relying on federal court precedents

Convenience Fees Exception:

Texas permits convenience fees when:

- Fee is for an alternative payment channel outside normal business
- Multiple payment methods are accepted
- Not charged solely for credit card acceptance

Cash Discount Alternative:

Many Texas merchants use cash discount programs to avoid the legal ambiguity around surcharging. This approach is fully compliant and avoids potential enforcement risk.

Recommendation: Texas merchants face significant legal uncertainty. Options include: (1) cash discount programs (safest), (2) convenience fees where applicable, or (3) surcharging with legal counsel guidance and awareness of enforcement risk. The AG's opinion suggests the state may enforce the ban despite federal court rulings.

Florida

Legal Status: PERMITTED - Despite statutory ban, federal courts deem it unenforceable
State Statute: Florida Statutes §501.0117 (technically prohibits surcharges)

Court Rulings:

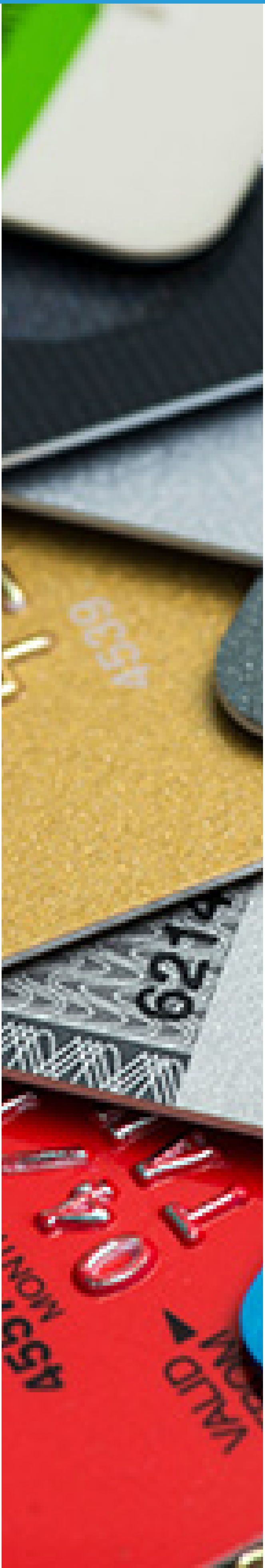
Federal courts have ruled Florida's surcharge ban unconstitutional under First Amendment analysis following Expressions Hair Design. While the statute remains on the books, it is not enforceable.

Current Practice:

Surcharging is effectively legal in Florida if:

- Customers are clearly informed beforehand
- Disclosure meets both state and card network requirements
- Surcharges comply with card network caps

Note: Florida's situation is more settled than Texas. Most processors and merchants operate surcharge programs in Florida with confidence based on federal court precedent.



Oklahoma
Legal Status: PERMITTED - Despite statutory ban, federal courts deem it unenforceable
State Statute: Oklahoma Statutes prohibit surcharges when consumer elects credit over cash

Court Rulings:
Similar to Florida, federal courts have declared Oklahoma's ban unconstitutional. The statute remains in Oklahoma law but is not enforced.

Current Status: Merchants in Oklahoma can implement surcharge programs following card network rules and federal guidelines without concern for state-level enforcement.

States with Cost-Based Restrictions
These states require that surcharges not exceed the merchant's actual cost of acceptance, adding a layer of compliance beyond percentage caps.

New York, New Jersey, South Dakota
Common Requirement:
These three states have statutes or regulations requiring that surcharges cannot exceed the merchant's actual cost of card acceptance.

Practical Impact:
This requirement mirrors card network rules (Visa, Mastercard, etc.) but provides state-level enforcement mechanisms. Merchants must:

- Calculate their true cost of acceptance
- Cap surcharges at that cost even if network limits are higher
- Maintain documentation proving compliance

Note: New York also has the enhanced disclosure requirements described in the previous section.

States with Pending or Recent Legislation
These states have active or recently passed legislation that may affect surcharging rules in the near future.
North Carolina
Current Status: PERMITTED
Pending Legislation: House Bill 13 (2025)

Legislative Activity:
North Carolina has seen multiple attempts to restrict surcharging:
- HB 626 (2011) - Did not pass
- HB 209 (2023) - Did not pass
- HB 13 (2025) - Currently making its way through state legislature

If HB 13 Passes:
- New restrictions would take effect January 1, 2026
- Specific requirements and limitations to be determined

Recommendation: North Carolina merchants should monitor HB 13's progress and be prepared to adjust surcharge programs if the bill passes. Implementation of any new requirements would likely begin in 2026.

Indiana
Current Status: PERMITTED
Pending Legislation: Restrictions on government service surcharges

Proposed Changes:
Indiana lawmakers are considering legislation that would prohibit surcharges when paying for government services, such as at the Bureau of Motor Vehicles.

Timeline:
If passed, new restrictions would likely not take effect until 2027 or later, giving government agencies time to adjust payment systems.

Note: Private businesses would remain unaffected by government-specific restrictions. This follows a trend of states treating government and commercial surcharging differently.

States Permitting Surcharging Under Standard Rules

The following states allow credit card surcharging under federal and card network rules without additional state-specific restrictions. Merchants in these states should follow card network requirements (30-day notice, 3-4% caps, disclosure rules, etc.) and federal law.

Full List of States with Standard Surcharging Rules:

Alabama, Alaska, Arizona, Arkansas, Delaware, Georgia, Hawaii, Idaho, Iowa, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming

Notable Mentions:

Georgia: Permits convenience fees if alternative payment methods (cash, check, money order) are offered without fee. Merchants cannot profit from surcharges.

Michigan: Requires specific signage - brick-and-mortar stores must post notices at entrances and registers; online sellers must disclose on first page mentioning credit cards. Gas stations must display both cash and credit prices with equal visibility. Note: Surcharge fees in Michigan are subject to the state's 6% sales tax.

Hawaii: Generally forbids surcharges if the card is used in place of cash or check, though some scenarios may allow fees. Legal interpretation is complex**.**

Important Reminder: Even in these 'standard rule' states, merchants must still comply with all federal requirements and card network rules. State-level simplicity does not mean federal-level simplicity. Always notify card networks 30 days in advance, cap surcharges appropriately, exclude debit cards, and provide proper disclosure

Compliance Resources and References

State Government Resources

For the most current state-specific information, consult these official resources:

- State Attorney General Offices: Each state AG's consumer protection division
- State Legislature Websites: For current statutes and pending bills
- State Department of Consumer Affairs: California, New York, and other states with dedicated consumer agencies

Key State Resources:

- Connecticut: Department of Consumer Protection - portal.ct.gov/dcp
- Massachusetts: Office of Consumer Affairs and Business Regulation
- California: Department of Consumer Affairs, Attorney General's Office
- New York: Department of Consumer Affairs, NY State government website

Monitoring Legislative Changes

Surcharging laws continue to evolve. To stay current:

- Subscribe to your payment processor's compliance updates
- Monitor state legislature bill tracking systems
- Join industry associations that track payment legislation
- Consult with legal counsel at least annually
- Review card network rule updates (Visa, Mastercard, etc.)

Important: This guide reflects laws as of October 2025. Always verify current requirements before implementing or modifying surcharge programs

Legal Disclaimer
This guide is provided for informational purposes only and does not constitute legal advice. The information contained herein is current as of October 2025 but is subject to change.

Important Considerations:
- Laws change frequently: State legislatures regularly modify surcharging regulations
- Court decisions: Federal and state courts continue to interpret surcharging laws
- Card network rules: Visa, Mastercard, and other networks update their surcharging policies periodically
- Local ordinances: Some cities or counties may have additional restrictions
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Before Implementing Surcharging:
- Consult with legal counsel licensed in your jurisdiction
- Work with your payment processor to ensure technical compliance
- Verify current state statutes and pending legislation
- Review your merchant agreement for surcharging terms
- Consult your accountant regarding financial reporting and tax implications

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Document Version: October 2025
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