

# Credit Card Fees and the Law

The first question that any business owner needs to consider before charging customers a fee to use their credit cards is whether or not it's legal.

In 2013, the major credit card issuers ruled that merchants can add a surcharge of up to 4 percent to all purchases made via credit card. The so-called "checkout fee" was designed to help merchants recoup the costs of credit card processing.

In the three years since the rules changed, very few major retailers have chosen to add the fees, noting that it placed an unfair burden on customers. In addition, 10 states — California, Colorado, Connecticut, Florida, Kansas, Maine, Massachusetts, New York, Oklahoma, and Texas — made the surcharges illegal. It's also important to note that surcharges on debit card purchases are illegal in every state, since the maximum fee on a debit card purchase is capped at 21 cents per swipe.

Further complicating matters is the fact that a merchant's ability to add a surcharge to credit card purchases is also governed by their individual relationship with the card issuer. **Currently, only Visa and MasterCard allow merchants to pass on fees; American Express and Discover prohibit** merchants from doing so as part of their terms of service. As a result, merchants have the option of only accepting MasterCard and Visa, since the laws states that surcharges must be applied to all cards, or not charging a fee to anyone.

In addition to restrictions on which cards can be charged a fee, merchants must also comply with other rules. The card issuers must be notified that you will be adding the fees, and customers must be notified by clear signage at checkout or in documented payment terms on contracts before they use their

cards. The fee must also be noted as a separate line item on the receipt.  
“Intelligence HQ”

## **Are convenience fees/surcharges illegal?**

Convenience fees and surcharges are legal, as long as they stay under a certain percentage of the purchase price and aren't assessed in a state that bans them. Because “convenience fees” in shops are usually incorrectly labeled surcharge fees, let's examine legal surcharge limits.

A surcharge over 4% of the purchase price is illegal and any surcharges are illegal in 10 of the 50 states — California, Colorado, Connecticut, Florida, Kansas, Maine, Massachusetts, New York, Oklahoma and Texas. If you live in any of these states and are charged an illegal surcharge, report the retailer to the state attorney general's office. Whether you are paying a convenience fee or surcharge, it's only legal if the payee alerts you to the fee. For example, it would be illegal for a shop to ring up your purchase and charge you a surcharge without letting you know about it. There must be a sign displayed outside the store stating a surcharge exists for credit card purchases and a notification of the amount of the fee at the point of sale. “Nerd Wallet”

**Discover will not be accepted for payments on invoices.** You are a valuable patient, and we hope you understand that our cost to treat our patients along with the added requirements of the insurance carriers and the Federal Government continue to rise. The insurance companies require more work and documentation for lower reimbursements.. **This is one way to cut cost and not our professional services.**

Name \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

- I agree to have my card on file.
  
- I do not agree and understand I will be charged a flat fee of \$2.50 on my total bill.
  - Thank you for your understanding.

The patient is allowed to refuse giving the practice a credit card but we will have to charge them a \$2.50 on their total bill.

If patients question whether this is legal they can call Brad or talk with Dr. Siegerman. It is legal according to the government. We cannot take Discover or American Express for payment on file with a fee. **That means we do not except Discover or American Express starting Jan 1<sup>st</sup> to pay for invoices.** We need to make a separate fee for the 2.50 fee. i.e. A hundred dollar charge would be \$2.50 fee. This will help us recoup a small amount of what the processor are charging us.

Below I have included two excerpts for those who wish to read them. We will make copies available to patients when they sign the form.