

# NYS Credit Card Surcharge Law 2024

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# Background

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## NY General Business Law, Section 518 **(up until February 11, 2024)**

- Enacted in 1970s
- Prohibited surcharging customers who paid by credit card

## Expressions Hair Design court case

- Adjudicated in 2017
- Started in NYS, went to the U.S. Supreme Court
  - Decision: a merchant could impose a credit card surcharge so long as the customer was provided notice and the dollar amount being charged
- Credit card processors began reaching out to businesses to modify their systems to allow for these charges

# New Law

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## NY General Business Law, Section 518 (as of February 11, 2024)

- New law signed into law by Gov. Hochul on December 13, 2023

### What the law says:

- Businesses are allowed to impose a credit card surcharge
- Credit card surcharges are limited to the amount charged to the business by the credit card company
- Businesses are required to post before checkout either:
  - the total price of an item or service inclusive of the credit card surcharge; or
  - a two-tiered pricing option, which requires the credit card price to be posted alongside the cash price.
- Businesses can offer a discount for paying by forms other than credit card
- Businesses cannot require a consumer to calculate the amount charged
  - Cannot say you will charge X percent surcharge for credit card payments

# New Law – “Dos and Don’ts”

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Per the NYS Division of Consumer Affairs:

ALLOWED WHEN YOU DECIDE TO INCLUDE A SURCHARGE IN YOUR PRICING:

- Listing the higher credit card price next to a lower cash price.
- Listing the credit card price for items and services, then letting customers know they will receive a discount for using cash.
- Listing just the credit card price.

NOT ALLOWED:

- Stating an additional X percent surcharge will apply for credit card purchases.
- Stating there is an X percent cash discount incentive built into all pricing and that any purchases made with a credit card will not receive the cash discount and an adjustment in cost will be displayed on your receipt
- Stating that a convenience fee, service fee, administration fee, non-cash adjustment, technology fee, processing fee, etc., is charged to credit card users and added as a separate line item on a customer receipt.
- Displaying a price for an item that shows “\$10.00, + 4 percent if paying with a credit card.”

# NYS Resources

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1. Credit Card Surcharge Guidance:  
<https://dos.ny.gov/system/files/documents/2024/02/2024-02-06-dos-dcp-credit-card-surcharge-one-page-reference-guide.pdf>
2. Examples of Credit Card Surcharge Violations:  
<https://dos.ny.gov/system/files/documents/2024/02/2024-02-01-credit-card-surcharge-violations-poster-20in-x-30in-cmyk.pdf>
3. Education video: <https://youtu.be/-Dt7Hq9yQVA>

# Funeral Service Compliance

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Funeral home options for complying with the new law:

1. Do not seek to recoup your credit card fee by passing it along to consumers;
2. Raise prices on your GPL to include the surcharge amount;
  - a. Option A: Charge everyone the new amount regardless of payment type
  - b. Option B: Offer a discount for paying by other forms such as cash or check
3. Create 2 price columns on your GPL, one for paying by credit card and the other for other forms of payment.

Important!

- Law applies to EACH service or item of merchandise. So, each listed price on your GPL must be adjusted. It is NOT referring to the total price of the funeral selected.
- If you choose to impose the surcharge you can only charge the amount charged to you. If you are charged a different amount for different types of cards (i.e Visa, Am Ex, Discover) you must either:
  - use the lowest amount charged to you when listing your price on the GPL or
  - have a different price for each type of credit card you accept that reflects the amount you are charged by the credit card network.

QUESTIONS???