

Witherspoon and Perfetti Examine VA's Altered Surcharge Law in *Law360*

In the News

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Stinson LLP Partner [Tom Witherspoon](#) and attorney [Marisa Perfetti](#) authored an article for *Law360*, "Va.'s Altered Surcharge Law Poses Constitutional Questions" that analyzes Virginia's newly amended Consumer Protection Act and its implications for surcharge disclosures and pricing transparency.

The law, which takes effect July 1, requires certain suppliers to display the total price of a good or service, including all mandatory fees or surcharges, at the time of advertising, not just at the point of sale.

"While the plain language of the new law merely requires a display of the total price, the requirement that the total price include any surcharge means a merchant cannot add to the displayed price a surcharge at checkout when the customer chooses to pay with a card," they write.

Witherspoon and Perfetti examine the law's practical impact, noting that while it does not explicitly ban surcharges, it effectively prevents merchants from imposing card-related fees at the point of sale. By mandating total price disclosure upfront, the law aligns with New York's recent legislative updates and continues a broader trend among states to regulate how surcharges are communicated to consumers.

Additionally, Witherspoon and Perfetti explore the constitutional concerns raised by the law's structure, particularly its distinction between surcharges and discounts.

"In 2017, the U.S. Supreme Court raised the question of whether such a surcharge prohibition unconstitutionally restricts commercial speech under the First Amendment, and several other lower courts have held such prohibitions unconstitutional. Still, states like Virginia and New York continue to pursue the issue," they write.

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Witherspoon's practice focuses on payments, consumer financial products and other bank and financial regulatory matters with an emphasis on compliance, financial transactional and litigation matters.

Perfetti focuses her practice on a broad range of complex banking and financial services matters, advising clients from FinTech startups to established financial institutions.

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