

## Changes to Virginia and Oklahoma Surcharge Laws

Alert

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As this year's legislative session is wrapping up, two states, Virginia and Oklahoma, enacted legislation to reform their laws related to surcharges. May 2, 2025, Virginia Gov. Glenn Youngkin signed [Senate Bill 1212](#) to amend the Virginia Consumer Protection Act (Act). The bill adds a new Chapter 58 to the Act which requires that certain suppliers disclose mandatory fees and surcharges in connection with consumer transactions. The legislation becomes effective July 1, 2025.

Separately, May 28, 2025, Oklahoma enacted [Senate Bill 677](#) that (1) repeals in its entirety, Okla. Stat. tit. 14a, § 2-417, the state's existing ban on sellers' ability to impose surcharges on credit and debit cards, and (2) permits sellers to impose a surcharge on credit card payments subject to compliance with disclosure and surcharge cap requirements. The legislation becomes effective Nov. 1, 2025.

### VIRGINIA SENATE BILL 1212

#### Virginia Disclosure Requirement

Generally, the new Virginia law mandates that suppliers "clearly and conspicuously" display the total price of a good or service in a consumer transaction, including "all mandatory fees or surcharges."

- "Mandatory fees or surcharges" is defined to "include any additional fee or surcharge that must be paid in order to purchase the good or service being advertised." However, "mandatory fee or surcharge" does not include:
  - Taxes, fees, or assessment fees imposed by a government or government-approved entity.
  - Reasonable postage or shipping fees.

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- “Clearly and conspicuously” means, for written disclosures:
  - Larger type than the surrounding text.
  - Contrasting type, font, or color to the surrounding text.
  - Set off from the surrounding text of same size by symbols or other marks to clearly call attention to the language.

Audio disclosures must be stated in a volume or cadence that can be readily audible and understandable.

Suppliers that offer goods and services with variable pricing are required to disclose: (1) the factors determining the final price, (2) the associated mandatory fees or surcharges, and (3) that the total cost may vary.

Chapter 58 also includes specific guidance for how restaurants, hotels, and suppliers that offer goods or services in an auction may comply with the disclosure provisions. Further, the law states that compliance with other applicable federal or Virginia law will constitute compliance under this section for (1) broadband Internet providers, (2) cable operators, (3) live-event ticket providers, and (4) food delivery platforms.

## Limitations on Requirement

Chapter 58 expressly permits suppliers to either reduce the total price that was previously advertised or display a promotion or discount that may include an offer to waive a mandatory fee. Suppliers may also display a price that complies with state or federal law that is applicable to such supplier.

## Exclusions

The legislation does not apply to certain fees or surcharges imposed by the following entities:

- Motor vehicle dealers.
- Electric utility companies.
- Natural gas utility companies.
- Telecommunications service providers.
- Air carriers.
- Those offering settlement services, excluding real estate broker commissions and fees.

Suppliers are also exempt from complying with the Virginia law if expressly preempted by federal law.

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## Penalties

A violation of Chapter 58 constitutes a violation of the Act, and the Act's enforcement provisions will apply. This means that a supplier that willfully violates Chapter 58 may be subject to a civil penalty of not more than \$2,500 per violation or not more than \$5,000 per violation for any subsequent violations. Additionally, the Act allows a private right of action to permit a person to recover actual damages or \$500, whichever is greater.

## OKLAHOMA SENATE BILL 677

### Oklahoma Disclosure and Surcharge Cap Requirements

The Oklahoma legislation amends Okla. Stat. tit. 14a, § 2-211 to prohibit a seller from imposing a surcharge on a credit card unless the seller complies with both a disclosure requirement and a surcharge cap.

- "Surcharge" is defined to mean "any additional amount imposed by [a seller] at the time of a credit card transaction that increases the amount of the transaction for the use of a credit card as payment."

Similar to the Virginia law, the Oklahoma law mandates that sellers "clearly and conspicuously" post the amount of the surcharge at the point of entry and point of sale for in-person transactions and at the point of sale for online transactions. Sellers must also provide verbal notice with all the required information for transactions occurring over the phone.

- While "clearly and conspicuously" is not defined in Oklahoma Senate Bill 677, Oklahoma Consumer Credit Code states that "a term or clause is 'conspicuous' when it is so written that a reasonable person against whom it is to operate ought to have noticed it. Whether a term or clause is conspicuous or not is for decision by the court."

Additionally, sellers are prohibited from imposing a surcharge over the following cap: the lesser of (1) 2 percent of the total transaction amount, or (2) the actual cost charged to the seller to process the credit card transaction.

### Limitations on Requirement

The law expressly permits sellers to make available a discount for payment by means other than a credit card for all sales, service, and lease transactions, and it does not impose a limit on the amount of such discount.

The new law also clarifies that sellers may not impose a surcharge on credit card payments if the seller does not accept any other method of payment.

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## Exclusions

Notably, the Oklahoma law retains two existing exceptions under Okla. Stat. tit. 14a, § 2-211 for various fees charged by private educational institutions and money transmitters registered with the Department of Treasury.

## FINAL THOUGHTS

Virginia and Oklahoma join as two of several states that require suppliers to disclose surcharges and fees on transactions or impose a surcharge cap. Given the numerous exclusions and limitations permitted under these laws, suppliers should closely review the requirements to ensure that they are in compliance as applied to their businesses.

For more information on the new Virginia or Oklahoma laws, or general surcharge and fee disclosure requirements, please contact Heidi Wicker, Tom Witherspoon, Marisa Perfetti, or the Stinson LLP contact with whom you regularly work.

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