

CALIFORNIA BAN ON HIDDEN FEES TO TAKE EFFECT; RESTAURANT EXCEPTION PASSES

Jun 28, 2024

A new California law that prohibits charging hidden fees for goods and services takes effect on July 1. After that date, all fees, with a few limited exceptions, must be disclosed at the outset of a consumer transaction and represented in the initial purchase price.

California Senate Bill 478 (SB 478) targets the practice of using a lower price to attract consumers and then tacking on additional required fees later in the buying process – sometimes referred to as “junk fees” or “drip pricing.” SB 478 amends California’s Consumers Legal Remedies Act to add to the list of unfair and deceptive acts “advertising, displaying, or offering a price for a good or service that does not include all mandatory fees or charges. Cal. Civ. Code § 29(a)(29).

One issue of concern for restaurants and similar businesses is whether the law prohibits mandatory gratuity or other service charges. On June 27, the California Legislature approved a so-called “restaurant exception,” SB 1524, that allows restaurants, bars, and similar businesses to continue adding mandatory fees to bills, without including the specific amount in advertised prices, so long as they disclose that fact that an additional charge will be assessed on any advertisement, menu, or other display that contains pricing information. The “restaurant exception” bill is likely to be signed into law, and would apply to restaurants, bars, food concessions, grocery stores and delivery services, and catering services.

The law also has exemptions for taxes or other government imposed fees, as well as shipping and delivery charges, although any “handling” charges must be included in the advertised price.

The California AG’s [SB 478 Frequently Asked Questions](#) confirms that fees for optional services or features, or fees that are not mandatory (for example, late fees, or fees for smoking in a non-smoking room) do not need to be included in the advertised price.

According to the AG’s office, other than for businesses covered by the restaurant exception, it is not sufficient to disclose additional required fees before a consumer finalizes a transaction, or to include in the advertisement a disclaimer that additional required fees will be added. Instead, the AG’s office states, “the price listed to the consumer must be the full price that the consumer is required to pay.”

SB 478 applies to nearly all California businesses and those targeting California consumers to sell or lease goods or services, including e-commerce, event tickets, short-term rentals, hotels, restaurants, and food delivery, just to name a few.

As with all CLRA claims, violations can be brought on an individual or classwide basis, with violators subject to actual damages or \$1,000 (whichever is greater per violation), restitution, punitive damages, injunctive relief and attorney fees. Consumers must provide a pre-suit notice with a 30-day opportunity to cure the alleged violation before filing a complaint with a CLRA claim for damages.

We have extensive experience advising clients on price advertising, including compliance with SB 478. For questions or more information, please contact the authors.

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