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From California to New York, Junk Fees Continue to Be a Hot Topic for Legislators and Regulators



Key Updates

- California's "drip pricing" law, which will limit how businesses can present fees and prices, is set to come into effect July 1, 2024.
- On May 8, 2024, California Attorney General Rob Bonta issued guidance on the new law.
- On May 20, 2024, Minnesota Governor Tim Walz signed a bill banning practices related to hidden and deceptive fees. The law will come into effect January 1, 2025.
- Several other states, including Connecticut and New York, have also introduced legislation on fees and advertised prices.
- At the federal level, on April 24, 2024, the Federal Trade Commission (FTC) held an informal hearing on its proposed rule prohibiting unfair or deceptive fees, first announced in October 2023.
- President Biden has also targeted so-called junk fees, highlighting his administration's efforts in March's State of the Union address.

Fees and all-in pricing continue to be hot topics at both state and federal levels.

As mentioned in our previous [blog post](#), California's "drip pricing" law [SB 478](#) will come into effect on July 1, 2024, restricting how businesses can present prices and fees. The law prohibits advertising, displaying, or offering prices for goods and services that do not include all mandatory fees (excluding taxes or government fees).

California Attorney General Rob Bonta issued [guidance](#) on the new law on May 8, 2024. The guidance reinforces that posted prices must include all amounts that customers will be required to pay. Businesses may exclude the costs of optional services, late fees, and charges for damages when posting prices, but cannot satisfy the law by disclosing that additional fees will be added or that a mandatory fee based on a percentage of the purchase price will apply. The guidance also clarified that for food delivery, the price of restaurant menu items

can be displayed separately from the cost of delivery, but the price shown for the delivery service must be the full, all-in price.

On May 20, 2024, Minnesota Governor Tim Walz [signed into law House File 3438](#), which will come into effect January 1, 2025. Similar to the California law, the new Minnesota law prohibits businesses from advertising prices that do not include mandatory fees. However, the Minnesota law potentially goes beyond California's by defining mandatory fees to include charges that a reasonable consumer would expect to be included in the purchase of the advertised goods or services. Minnesota also offers limited exceptions in certain circumstances for (1) goods or services in an auction, (2) variable costs determined by customer selections, and (3) automatic gratuities at food and beverage establishments.

Other states have also been active in introducing legislation regarding disclosure of mandatory fees. Multiple bills have been introduced in both Connecticut and New York, with at least one bill in each state making it past one legislative chamber. Some states have introduced bills that go beyond California's requirements, such as an [Illinois bill](#) that, in addition to requirements similar to California's, would require businesses to disclose the nature and purpose of any amount excluded from the total price.

At the federal level, the FTC has sought comments and held public hearings on its proposed [Trade Regulation Rule on Unfair or Deceptive Fees](#), first announced in October 2023. The proposed rule would prohibit fees that the FTC describes as "hidden" by requiring businesses to clearly and conspicuously disclose the total price of an offered good or service, as well as prohibit misleading fees by requiring disclosure of the nature and purpose of any amount a consumer may pay. Other federal agencies have proposed rules on fees too, such as the Consumer Financial Protection Bureau and Federal Communications Commission. President Biden has also underscored his administration's agenda with mandatory fees by including the issue in the [State of the Union](#) address in March 2024, saying "My Administration has proposed rules to make cable, travel, utilities, and online ticket sellers tell you the total price upfront so there are no surprises."

As additional legislation and regulations are proposed and come into force, it is a good time for businesses to review their fee advertising and disclosure practices.

Authors

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