

Client Alert: “Unfair and Deceptive Fees” Law

By Adam Barnosky on August 28, 2025



What Restaurants Need to Know about the New “Unfair and Deceptive Fees” Law

Starting September 2, 2025, new rules from the Massachusetts Attorney General's Office will change how restaurants display prices. The regulations (940 CMR 38.00) target so-called ‘junk fees’ by requiring clear, upfront disclosure of charges on menus and customer checks. For restaurants, that means being more transparent about service fees, credit card surcharges, and other add-ons so guests know the true cost of dining before they order.

Beginning September 2, all mandatory fees must be included in the menu price. All general charges, such as “kitchen appreciation” fees or “service” fees can no longer be added at the end of the bill unless they are included directly within the menu pricing. These regulations do not prevent a restaurant from presenting the price of a menu item as one all-in price. Restaurants only need to individually identify and describe particular components of the total price of the menu if there is reference to a service fee, administration charge, or other expense. Using general terms like “kitchen appreciation fee” without the inclusion of some explanatory detail will run afoul of the new regulations.

For example: if a pasta bolognese dish was previously \$10.00 and the restaurant had an automatic 18% “kitchen appreciation fee” included on the bill, here are a few examples that would comply with the new regulations:

Compliant Example 1: Pasta Bolognese: \$11.80. *This is an example of “all-in” pricing and includes the total food cost and kitchen fee in the price. No additional disclosure is needed, as the consumer is made aware of the total cost charged as related to the menu item.*

Compliant Example 2: Pasta Bolognese: \$11.80* with a note stating, for example, that *Prices are inclusive of an 18% “kitchen appreciation fee” for back-of-the-house staff compensation. *This example includes the total price with an explanation about the aggregate cost. The reference to a percentage kitchen fee requires additional details about the charge and may also require additional disclosure under G.L. c. 149, § 152A.*

Compliant Example 3: Pasta Bolognese \$11.80 (\$10 menu item, plus \$1.80 as an 18% “kitchen appreciation fee” for back-of-the-house staff compensation). *This example includes the total price and breaks down the individual food cost and fee cost. The reference to a percentage kitchen fee requires additional details about the charge and may also require additional disclosure under G.L. c. 149, § 152A.*

Every restaurant will need to carefully vet its menus, fee disclosures, and billing practices to ensure compliance with 940 CMR 38.00. The examples provided above are for illustrative

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purposes only, and each business should evaluate how the new regulations apply to its own operations. Importantly, tip pooling and wage laws continue to apply, and restaurants should consult a qualified legal professional regarding their specific circumstances before implementing or adjusting any fee structures.

Additional Notes:

- Service charges for large parties (e.g., 18–20% for six or more guests) are still permitted if disclosed on the menu and exclusively remitted to wait staff employees, service employees, or service bartenders.
- A restaurant can still breakdown the bill by category, separating the food and beverage total from any previously disclosed fees. This approach not only lets guests see the actual menu price and make tipping decisions based on the food and beverage subtotal but also preserves the original intent of kitchen or administrative fees: helping to reduce the pay disparity between front-of-house service staff who receive tips and the back-of-house employees who traditionally do not.

Action Steps for Restaurant Operators: Taking proactive steps now can help ensure compliance and minimize the risk of enforcement actions. To comply with the new regulations, restaurant operators should:

1. Audit menus to ensure all mandatory charges are included in the menu and comply with the new regulations;
2. Update POS systems, menus, bills and receipts to reflect any changes made in compliance with the laws; and
3. Consult with a qualified legal professional to ensure compliance with 940 CMR 38.00.

A summary from the Office of the Attorney General regarding compliance with the new regulations can be found [here](#).

For a Q&A on this new legislation, visit Adam's LinkedIn post [here](#).

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