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# The Latest on “Junk Fees” for Restaurants

CA’s SB 478 & 1524/FTC’s Staff  
Guidance on “Undisclosed Fees  
Imposed on Franchisees”

# Presenters



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## Today's Discussion

- The Big Picture and SB 478.
- Latest in Developments Around SB 1524 and What it Means for Restaurants / Food Operators.
- Risk Mitigation Considerations for Restaurants Pending Further SB 478 and SB 1524 Clarity.
- FTC Staff Guidance on “Junk Fees” and What It Means for Franchisors.

## The Big Picture & SB 478

- Effective as of July 1, 2024.
- SB 478 is an amendment to California's Consumer Legal Remedies Act (CLRA).
- The goal of SB 478 is to enhance price transparency and protect consumers.
- Requires businesses to include certain fees in the advertised price.
  - Prohibition of misleading advertising practices such as “drip pricing” and “junk fees.”
  - Requirement for all *mandatory* fees and charges to be included in the advertised price, with narrow exceptions for taxes and shipping.

## The Potential Consequences of Non-Compliance with SB 478

- Remedies available under the CLRA for noncompliance.
- Potential civil penalties and the role of public prosecutors.
- Challenges restaurants may face in disputing liability and monetary remedies.
- How the plaintiffs' bar may leverage SB 478 in consumer class actions.
- Impact of SB 478 on existing business practices and defenses.

## SB 1524

- Signed into law June 29, 2024.
- Creates some exemptions to the “junk fee” law incorporated into the CLRA through SB 478.
- Intends to exclude restaurants, bars and food services providers from the applicability of SB 478’s requirements relating to mandators fees/surcharges, so long as such businesses meet the conditions of clear and conspicuous pre-sale disclosure.
- Without, these covered businesses faced potentially more onerous compliance requirements under SB 478.
- Noncompliant businesses face significant risk under SB 478, including potential government enforcement and litigation.

## SB 1524 Text

SB 1524 adds the following to Civil Code Section 1770, para. 29:

- (D)(i) Subject to clause (ii), this paragraph [i.e., Civil Code Section 1770, para. 29, which was added by SB 478] does not apply to a mandatory fee or charge for individual food or beverage items sold directly to a customer by a restaurant, bar, food concession, grocery store, or grocery delivery service, or by means of a menu or contract for banquet or catering services that fully discloses the terms of service.
- (ii) A mandatory fee or charge under clause (i) shall be clearly and conspicuously displayed, with an explanation of its purpose, on any advertisement, menu, or other display that contains the price of the food or beverage item.
- (iii) “Grocery delivery service” means a company owned by, or under contract with, a grocery store or distributor that delivers food, primarily fresh produce, meat, poultry, fish, deli products, dairy products, perishable beverages, baked foods, and prepared foods, from the grocery store or distributor to a consumer.
- (i) The exemption in this subparagraph does not apply to a “third-party food delivery platform,” as defined in Section 113930.5 of the Health and Safety Code, or any other food delivery platform.
- (ii) As of July 1, 2025, any disclosure, advertisement, or notice that is required to be “clearly” or “clearly and conspicuously” made must have text that is “clear and conspicuous,” as defined in subdivision (u) of [California Civil Code] Section 1791.

## Key Takeaways

- Although SB 1524 addresses some concerns for restaurants that SB 478 created, it leaves important questions unanswered, creating continuing uncertainty for operators.
- To be exempt from SB 478, SB 1524 provides that a “mandatory fee or charge” must be:
  - Clearly and conspicuously displayed;
  - With an explanation of its purpose; and
  - On any advertisement, menu, or other display that contains the price of the food or beverage item.



## “Clearly and Conspicuously Displayed”

- This means “a larger type than the surrounding text, or in a contrasting type, font, or color to the surrounding text of the same size or set off from the surrounding text of the same size by symbols or other marks, in a manner that clearly calls attention to the language.”
- Requirements for the clear and conspicuous disclosure are effective now, but the definition of what counts as “clear and conspicuous” will change in July 2025.

## “With an Explanation of Its Purpose”

- No definition for what counts as an “explanation of [the fee’s] purpose,” but businesses should consider how to accurately describe such fees and their ultimate use or purpose to mitigate risk.

## “On Any Advertisement, Menu, or Other Display that Contains the Price of the Food or Beverage Item”

- Calls for clarity in the restaurant industry.
- Unless the legislature or courts provide further guidance, businesses may struggle in understanding their obligations and in balancing potential legal risks with business objectives.

## Key Considerations and Risk Mitigation

- Risk Remains – Be Proactive
- Businesses should review all current and planned practices with respect to mandatory fees and charges and consider implementing measures for compliance and risk mitigation.
- Restaurants and other businesses working with third-party delivery companies should consider reviewing their service agreements to understand, for example, liability limitations and indemnification rights.

## FTC Staff Guidance on Undisclosed Junk Fees

- Released by FTC on July 12, 2024.
- All fees must be included in the franchise agreement and disclosed in the FDD or the franchisor may be engaging in an unfair act of practice in violation of Section 5 of the FTC Act.

## What It Means for Franchisors

- Reserve right to impose fees for possible future services, such as technology and supply chain.
- Reserve right to increase fees.
- Franchisors should review franchise agreements, operations manuals and practices to ensure compliance with the Franchise Rule and FTC Act.

The background is an abstract composition of various shades of blue, ranging from deep navy to light sky blue. It features a complex network of thin, dark lines that intersect to form a grid-like pattern. The lines are oriented in multiple directions, creating a sense of depth and perspective, as if looking down a long, narrow corridor or through a series of overlapping planes. The overall effect is dynamic and modern.

# Questions?

# Thank You!



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