

Food Service Establishments Face New Disclosure Requirements Under Florida’s New “Operations Charges” Law

Article

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Starting July 1, 2026, Florida businesses that add mandatory fees to customer bills, including service charges, automatic gratuities, credit card surcharges, delivery fees, or other mandatory add-ons, must follow new disclosure rules under an amended version of Florida Statute Section 509.214. The new requirements apply to every “public food service establishment” in the state, a broad category that covers any building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption, takeout, or delivery.

The statute does not create a private right of action (i.e., a customer cannot sue), but the state can fine or sanction non-compliant establishments. The new rules bring to the forefront the distinction between voluntary, discretionary tips and mandatory, non-discretionary charges, which raises wage-and-hour law compliance implications when considering how businesses label, distribute, and account for these amounts.

If your business charges customers anything beyond the listed price of food and beverages and government-imposed taxes, here is what you need to know:

What Is Changing, and What Already Applied

Florida already requires food service establishments to disclose on the menu and on the bill whenever an automatic gratuity or service charge is included in the price of a meal. That is the full extent of the current rule, which does not specify font sizes, receipt formatting, or online disclosure requirements.

The amended statute broadens the scope from automatic gratuities and service charges to all “operations charges,” which the law defines as any automatic fee or charge, other than a government-imposed tax, that a customer is required to pay in addition to the cost of food and beverages.

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The definition expressly includes service charges, automatic gratuities, credit card surcharges, and delivery fees, but is not limited to those examples.

Starting July 1, 2026, businesses that charge any operations charges must disclose those charges on the food menu, written banquet, catering, or event contract, and website or mobile application where food and beverage orders are placed. **The disclosure must clearly state both the amount or percentage of the operations charge and its purpose and appear in a font at least as large as menu item descriptions or the general provisions of the contract.** If the business does not use menus, provide table service, or issue written event contracts, such as a food truck, the disclosure must appear in an obvious and clearly readable manner on a menu board or on a sign by the register.

Every bill presented to a customer must state on its face that an operations charge is included and must clearly identify the percentage or amount. Customer receipts must contain separate lines for gratuity (tip), operations charge, and sales tax, and if the operations charge includes an automatic gratuity, that automatic gratuity must be separately stated on the receipt. One notable carve-out: the law does not apply to dining plans, packages, or fixed-price meals where the total price is disclosed to the customer before purchase.

Tips v. Operations Charges: Why the Distinction Matters

The statute draws a bright line between two types of payments. A "gratuity" or "tip" is defined as a sum presented by a customer as a gift or contribution in recognition of service, where both the decision to pay and the amount are entirely at the customer's discretion. An "operations charge," by contrast, is a mandatory fee the business requires the customer to pay. This distinction is not just a labeling exercise; it has real consequences for how these amounts are treated under federal and state wage-and-hour law, tax rules, and an employer's obligations to its employees.

Under both federal and Florida law, employers may take a "tip credit" toward their minimum wage obligation for "tipped employees," that is, employees who customarily and regularly receive more than \$30 per month in tips. The tip credit allows an employer to pay a direct cash wage below the applicable minimum wage, with tips making up the difference. In Florida, employers can take a maximum tip credit of \$3.02. Applicable to the new disclosure requirements, a tip credit can only be taken against tips, i.e., voluntary, customer-determined payments. A mandatory operations charge such as a service charge or automatic gratuity, such as those imposed for large parties, imposed by the business is not a "tip" under the FLSA, and these amounts cannot be used to satisfy an employer's tip credit.

The same issue ripples into tip pooling. Under the FLSA, employers may require tipped employees to participate in a valid tip pool, but only with tips, not with mandatory service charges. If a business funnels revenue from a mandatory operations charge through a "tip pool," the legal character of those payments does not change just because the money is distributed alongside actual tips. Additionally, mandatory charges that are paid to employees may need to be included in the "regular rate" of pay for purposes of calculating overtime, which can further increase an employer's exposure to unintentional wage and hour violations.

The new law, which requires separate lines on the customer receipt for "gratuity" (bona fide tip) and "operations charge," is designed to make the distinction transparent at checkout. But the transparency cuts both ways: once a receipt labels a charge as an "operations charge" rather than a "gratuity," it becomes much harder to treat that revenue as tip income for purposes of the tip credit, tip pooling, or payroll, even if the label is in error. Employers should review how they currently classify and distribute mandatory charges, update their point-of-sale systems and payroll practices to match the legal character of each payment, and ensure their wage-and-

hour practices reflect the reality that mandatory fees are not tips.

No Private Right of Action—but Real Consequences for Noncompliance

Section 509.214 expressly states that it does not create a private cause of action related to compliance with its requirements, meaning neither customers nor employees can sue a business for allegedly violating the disclosure law.

While the new law does not allow for a private cause of action, the Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation ("Division"), has the authority to factor in failure to meet the requirements into inspection or licensing matters. This includes the authority to impose fines of up to \$1,000 per offense, require remedial training at the business's expense, or suspend or revoke a business's license. The Division may treat each day of noncompliance as a separate offense for violations of a "critical law or rule," which means penalties can accumulate quickly. While the specific degree of enforcement and framework surrounding penalties for Section 509.214 violations remains unsettled, the Lowndes Labor and Employment Law team will continue to monitor any developments.

What Food Service Establishments Should Do Now

With the July 1, 2026, effective date approaching, the time to prepare is now. Audit your menus, both in print and online, as well as any banquet, catering, or event contracts, to ensure that every operations charge is clearly disclosed with the required amount or percentage and its stated purpose in the required font size. Update your point-of-sale system and receipt templates so that every customer receipt presents separate lines for gratuity (bona fide tip), operations charge, and sales tax, with any automatic gratuity within the operations charge broken out separately. Review how your business labels and communicates these charges to both customers and staff, and make sure those labels match the legal character of the charge (i.e., voluntary tips should be labeled as tips, and mandatory fees should be labeled as operations charges). Finally, consult with legal counsel to audit your business practices and reduce your legal risk.

Please contact any attorney on the Lowndes **Labor and Employment Law** team should you have questions about this article or any other employment law issues impacting your business.