

# FLORIDA'S "OPERATIONS CHARGE" LAW TAKES EFFECT JULY 1 AND IT'S NOT JUST A MENU UPDATE: WHAT HOSPITALITY EMPLOYERS NEED TO KNOW

Insights  
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## Florida's "Operations Charge" Law Takes Effect July 1 and It's Not Just a Menu Update: What Hospitality Employers Need to Know

Florida hospitality businesses face a new compliance challenge this summer, and this one is all about transparency. Effective July 1, the state's new "operations charge" law significantly expands how public food service establishments disclose fees to customers – including service charges, automatic gratuities, credit card surcharges, delivery fees, and other mandatory add-ons. The new rules apply to any "public food service establishment," which is broadly defined to include any restaurant, food truck, hotel dining outlet, catering operation, or other place where food is prepared, served, or sold for immediate consumption or takeout. So if you're reading this, the law likely applies. If you charge any of these fees, you need to act now to update your menus, receipts, websites, and internal processes – and evaluate how these changes impact your wage-and-hour compliance. Here's what the new law requires and five steps you should take before July 1.

### What's New?

Florida law already requires public food service establishments to notify customers when an automatic gratuity is included in the bill. However, Governor DeSantis approved a [new law](#) last year that, starting July 1, will expand the term "operations charge" to include any

### Related People



**Megan L. Janes**

Partner

[954.847.4717](tel:954.847.4717)



**Emily N. Litzinger**

Partner

[502.561.3978](tel:502.561.3978)

automatic fee or charge, other than a government-imposed tax, that a customer is required to pay on top of the food and beverage cost. This updated definition goes much further than the current rules, which address automatic gratuities and service charges only.

This means menus, websites, mobile apps, and contracts must clearly explain the charge. Receipts must break out gratuity, operations charges, and taxes separately. If gratuity is embedded in a service charge – it must be itemized. Notably, the statute explicitly names websites and mobile applications as covered disclosure channels. If your establishment accepts online or pickup orders, the notice must appear before the customer completes the transaction.

The disclosure must explain the purpose of the service charge, not just the amount or percentage, so if your establishment retains a portion for operational costs, that needs to be communicated to the customer.

Catering and event-focused businesses should note that the law exempts dining plans, packages, and fixed-price meals where the full price is disclosed before purchase. That said, any arrangement involving a written contract with separately itemized charges is explicitly covered, so consult with counsel to confirm where your model falls. The law is also prescriptive about how and where these disclosures must appear.

Notices must match the font size of surrounding menu or contract text, receipts must break out gratuity, operations charges, and taxes as separate line items, and online ordering platforms must display the notice before checkout. See Step 2 for a full breakdown by channel.

### **What Happens If You Do Not Comply?**

Unfortunately, at this point, the scope of potential liability for non-compliance is unclear. While the law does not allow customers to sue directly for non-compliance, the Florida Department of Business and Professional Regulation (DBPR), which oversees public food service establishments, may factor in failure to meet these requirements into inspections or licensing matters.

Under [Florida Statute Section 509.261](#), the DBPR has broad authority to impose administrative fines ranging from \$100 to \$1,000 per violation and can treat each day of non-



**Molly Mullen**

Associate

407.541.0853

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compliance as a separate offense, though the specific penalty framework for Section 509.214 violations remains unsettled. We will continue to monitor guidance from the DBPR as the July 1 effective date approaches.

## Potential Impact on Wage-and-Hour Compliance

Wage and hour laws distinguish between discretionary “tips” and mandatory “service charges.” For many years, employers have blurred the line between tips and service charges – sometimes unintentionally, sometimes for operational ease. From a wage and hour perspective, that line matters because:

- **Voluntary, discretionary tips** belong solely to employees and are **not** factored into the employee’s regular rate of pay – however, the fact those tips are *voluntary* and *discretionary* is essential for employers who take a tip credit to bridge the difference between an employee’s hourly rate and the required [minimum wage](#).
- In contrast, **mandatory, non-discretionary service charges** (or operations charges) are the property of the employer unless redistributed. If redistributed to employees, these funds impact the employee’s regular rate of pay for purposes of overtime calculations. This means that payroll software may not properly calculate overtime and revisions (and auditing) may be required. Similarly, if properly structured as commissions, some workers may be exempt from overtime pay.

The new law’s explicit definition of “operations charge,” and its transparency requirements, puts this distinction front and center. **Blurring the line between a tip and a service charge is not just a compliance risk under this new state law, it can also create wage and hour exposure under the federal Fair Labor Standards Act. Therefore, employers should focus on tip credit compliance, minimum wage obligations, overtime calculations and, importantly, employee expectations.** How you label, disclose, and distribute these charges needs to align across your menus, your payroll practices, and your policies.

For employers navigating the [recent 80/20/30 rule withdrawal](#), clear itemized receipts that distinguish gratuities from other charges are also critical to demonstrating tip credit compliance if a dispute arises, and take on added significance in light of recent federal developments around

no tax on tips and no tax on overtime changes, where accurate characterization of payments will matter more than ever.

## **Warning About Local Ordinances**

The new state law sets a baseline, but it does not preempt stricter local requirements. Miami-Dade County, for example, has its own ordinance requiring that automatic gratuity notices contain additional language and be posted in English, Spanish, and Creole. If you operate in multiple Florida markets, double-check the applicable local rules that may layer on top of the new statewide requirements.

## **Your 5-Step Compliance Plan**

### **1. Audit the Fees You Charge Customers**

Walk through your current pricing model and identify each mandatory add-on that customers are required to pay. If a customer must pay it, then it is likely an operations charge under the law. Do not assume that how you label these charges today is sufficient going forward. Also consider how funds are distributed internally, as this also must be disclosed.

### **2. Update Your Menus, Websites, Contracts, and Mobile Apps**

The new law has precise requirements for how and where the disclosure must appear. Notices that are vague, too small, or buried will not cut it. On printed menus, the disclosure must state the amount or percentage of the operations charge and its purpose, and the font must be equal to or larger than the font used for menu item descriptions. For example, if your menu lists dishes in 10-point font, your operations charge notice must be in at least 10-point font. It cannot appear in a footnote or fine print at the bottom of the page. If customers place orders through your website or a mobile app, the same font size and content requirements apply there as well.

Audit your online ordering platform and confirm the notice is visible before the customer completes a transaction, not buried in a terms page the customer may not see before ordering.

If you do not provide printed menus or table service, such as in fast-casual or counter-service settings, the notice must

appear on your menu board or on a sign posted in an obvious and clearly readable location near the register. Small stickers or low-contrast signage will not satisfy that standard.

Finally, if you provide written contracts for banquet, catering, or event services, the operations charge notice must appear in those contracts in a font at least as large as the font used for the general contract provisions. Review your standard event agreement templates and update them before July 1.

The state has not yet issued formal guidance or compliance resources on the new requirements, so employers should monitor the DBPR's website for updates as the effective date approaches.

### **3. Update Your Receipt and POS Systems**

Customer receipts must now contain separate line items for gratuity, any operations charge, and sales tax. If your operations charge includes an automatic gratuity, that gratuity must be broken out separately. Work with your point-of-sale vendor now, before July 1, to make sure your system can generate receipts that meet these requirements. This is not a change you want to be troubleshooting on the first day the law takes effect.

### **4. Align Your Pay Practices**

The law draws a clear line between a tip, which is voluntary and at the customer's discretion, and an operations charge, which is mandatory. Review how you describe your charges to customers and how you distribute those funds internally. If you are using a mandatory service charge as part of your employee compensation model, make sure your practices align with both Florida's new transparency requirements, as well as all applicable wage and hour laws.

### **5. Train Your Front-of-House and Management Teams**

Your managers and customer-facing staff will be the first to field questions when customers notice new line items on their receipts or new language on menus. Make sure they understand what an operations charge is, how your establishment uses it, and why the new disclosures are appearing. Clear internal communication now will prevent confusion and complaints later. This also applies to

employees who may have questions about how their compensation is structured.

## **Conclusion**

If you have questions about how Florida's new operations charge law affects your business, or how to structure your service charges and tip practices to stay compliant, please contact your Fisher Phillips attorney or any member of our [Hospitality Industry Team](#) or [Wage and Hour Practice Group](#). Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information as this and related developments continue to evolve.