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New Massachusetts Consumer Protection Regulations on "Junk Fees" and Deceptive Pricing

Law360 "Expert Analysis" Authored by Megan Ryan and Sam Bodurtha

In The News | 2 min read

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Hinshaw colleagues Megan Ryan and Sam Bodurtha recently authored a *Law360* "Expert Analysis" offering a practical overview of Massachusetts' new consumer protection regulation, 940 CMR 38.00, which is targeted at "junk fees" and deceptive pricing.

Closely tracking a prior *Consumer Crossroads* blog post, the piece explains compliance obligations of sellers and service providers across sectors such as e-commerce, digital advertising, residential leasing, restaurants and delivery platforms, and insurance.

Megan and Sam highlight key regulatory requirements, including clear disclosure of the total price—including all non-government fees—transparent identification of each charge's nature and purpose, and display of the total price prior to collecting consumer information. The authors also outline stricter rules for trials, negative options, and recurring charges, including advance notices, easy cancellations, and timing disclosures aligned with renewal cycles.

In light of recent litigation, our authors warn of increased class action risk over online pricing and add-on fees, and note that out-of-state businesses marketing to Massachusetts consumers may also be affected. Industry-specific guidance covers restaurant and delivery fee presentation, total periodic pricing in rental listings, and insurer responsibilities when auto-renewals operate as negative options.

Key Takeaways and Compliance Recommendations for Sellers

Total Price Disclosure and Prominence:

- Disclose the total price upfront (including all non-government and non-shipping fees) and display it more prominently than any other price. Before the purchase and before collecting any personal or billing information, disclose the final transaction amount, including government and shipping fees.

Fee Transparency:

- Clearly state the nature, purpose, and amount of all fees. For optional or waivable fees, provide instructions on how to avoid them. Do not misrepresent that any fee is legally required.

Trials, Negative Options, and Renewals:

- Provide prior written disclosures of what will be charged, when, and how to cancel; offer a simple mechanism that immediately stops recurring charges. For features longer than 31 days, send written notice 5–30 days before the cancellation date; for 31 days or less, provide disclosures at least as often as billing occurs.

Broad Scope and Litigation Risk:

- The rules apply to marketing and promotional offers targeted to or resulting in sales in Massachusetts across apps, text, radio, TV, and the internet. Out-of-state businesses advertising to Massachusetts consumers are covered, increasing class action exposure for noncompliance.

Read the full Law360 "Expert Analysis" (PDF).

- *Law360:* "New Mass. 'Junk Fee' Regs Will Be Felt Across Industries" (October 22, 2025)

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