
Empire State Restaurant & Tavern Association

Report From The Executive Director...Scott Wexler

May 2019

Passing Along Credit Card Processing Fees to Your Customers - Many of our members have expressed concern to us about the ever increasing cost of processing credit and debit card payments. The combination of the continuing hikes in fees from the card processors with the growing use of these payment forms by your customers has made this one of your most expensive cost centers.

For years members have sought out the card processor with the best rates in order to limit their card processing expenses, but more recently we're seeing businesses seek to reduce their out-of-pocket costs by offering cash discounts, charging more for items paid for by credit card, or surcharging credit card purchases. Well, now you have the blessing of New York State's highest court, the Court of Appeals. The court said it's legal for businesses to pass along the cost of credit card processing to your customers – but there are very specific rules you must follow...so what are the rules?

- You can't merely surcharge your customers as a percentage of the bill
- The higher credit card price must be listed in dollars and cents on the menu – the customers must know the total price without having to do the math themselves
- Businesses may offer customers a discount for paying cash – your menu prices would reflect the higher credit card prices – you can offer a percentage discount for cash customers

Failure to follow these rules could result in prosecution which could lead to a fine of up to \$500, up to one year in jail or both. And a recent NYS Labor Department case reminds us that while New York State allows you to withhold from employee tips any discount fee your card processor charges, you cannot deduct any other fees (such as statement fees, transaction fees, etc.) from your employees' tips.

Last Call for Golfers - Time is running out to register for the Association's Annual Golf Outing being held on June 3rd at Cronin's Golf Resort in Warrensburg. The \$110 per golfer registration fee includes greens fees, cart, lunch, refreshments on the course, hors d'oeuvres and dinner (cash bar), awards, and prizes. Call the Association office at 518-436-8121 to register or download a form from our website. Cronin's cabins are available for overnight stay on a first come – first served basis. Call 518.623.9336 to reserve yours.