

2022 -- S 2738

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS--
SURCHARGES ON CREDIT CARD TRANSACTIONS

Introduced By: Senator Maryellen Goodwin

Date Introduced: March 24, 2022

Referred To: Senate Commerce

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 6 of the General Laws entitled "COMMERCIAL LAW - GENERAL
2 REGULATORY PROVISIONS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 26.2

4 SURCHARGES ON CREDIT CARD TRANSACTIONS

5 **6-26.2-1. Legislative intent.**

6 It is the intent of the general assembly to promote the effective operation of the free market
7 and protect consumers from deceptive price increases for goods and services by prohibiting credit
8 card surcharges and encouraging the availability of discounts by those retailers who wish to offer
9 a lower price for goods and services purchased by some form of payment other than credit card.

10 **6-26.2-2. Definitions.**

11 As used in this chapter:

12 (1) "Consumer" means the person named on the face of a credit card to whom or for whose
13 benefit the credit card is issued by an issuer and shall include any employee or other agent or
14 authorized user of the card;

15 (2) "Credit card" means any instrument or device, whether known as a credit card, credit
16 plate, charge card, charge plate, or by any other name, issued with or without fee by an issuer for
17 the use of the cardholder in obtaining money, goods, services, or anything else of value on credit
18 or payable in full when due, including revolving or non-revolving credit or charge account;

1 (3) "Person" means an individual or corporation, partnership, trust, association, joint
2 venture pool, syndicate, sole proprietorship, unincorporated organization, or any other legal entity;
3 and

4 (4) "Retailer" means any person who furnishes money, goods, services, or anything else of
5 value upon presentation, whether physically, in writing, verbally, electronically or otherwise, of a
6 credit card by the cardholder, or any agent or employee of such person.

7 **6-26.2-3. Surcharges on credit card transactions prohibited.**

8 (a) No person or retailer doing business in Rhode Island in any sales, service, or lease
9 transaction with a consumer may impose a surcharge on a consumer who elects to use a credit card
10 as payment unless such person or retailer complies with the following requirements:

11 (1) Displayed prices, including, but not limited to, advertisements, shall display the total
12 price charged to consumers using a credit card, or if the person or retailer elects, two (2) prices, one
13 of which is the price charged to consumers using a credit card and the other is the price charged to
14 consumers using an accepted form of payment other than a credit card.

15 (2) A notice shall be posted that explains the impositions of the surcharge, the amount of
16 the surcharge and which credit cards are subject to the surcharge. Such notice shall be clearly and
17 conspicuously posted at the point of entry and the point of sale. If the sale of goods, services or
18 lease transaction is processed through a website or mobile device, the person or retailer must post
19 such notice on the home page and the point of sale webpage. If the sale of goods, services, or lease
20 transaction is processed over the phone, such notice including all required information shall be
21 verbally disclosed to the customer. The notice required by this section shall be prominently and
22 conspicuously posted at the required locations in a minimum size 16 pt font.

23 (3) No surcharge shall exceed one percent (1%) of the total transaction or the actual amount
24 to be charged to the person or retailer to process the credit card transaction, whichever is less.

25 (b) A person or retailer may offer discounts for the purpose of inducing payment by cash,
26 check, or other means not involving the use of a credit card; provided that, the discount is offered
27 to all prospective buyers and its availability is disclosed to all prospective buyers clearly and
28 conspicuously.

29 (c) A consumer shall not be deemed to have elected to use a credit card in lieu of another
30 means of payment for purposes of this section in a transaction with a person or retailer if only credit
31 cards are accepted by that person or retailer in payment for an order made by a consumer over a
32 telephone, and only cash is accepted at a public store or other facility of the same person or retailer.

33 (d) Charges for third-party credit card guarantee services when added to the price charged
34 by the person or retailer if cash were to be paid, shall be deemed surcharges for purposes of this

1 section even if they are payable directly to the third party or are charged separately.

2 **6-26.2-4. Penalties.**

3 Any person or retailer who violates the provision of this chapter shall be guilty of a
4 misdemeanor punishable by a fine not to exceed five hundred dollars (\$500) or a term of
5 imprisonment up to one year, or both. Moreover, a violation of this section shall be deemed an
6 unfair or deceptive trade practice under chapter 13.1 of title 6.

7 **6-26.2-5. Exemptions.**

8 Nothing in this chapter shall prohibit any person or retailer from conditioning acceptance
9 of a credit card on a consumer's minimum purchase. Each person or retailer shall disclose any such
10 minimum purchase policy orally or in writing at the point of purchase. For the purposes of this
11 section "at the point of purchase" includes, but is not limited to, at or on a cash register, in an
12 advertisement or menu.

13 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS--
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1 This act would provide that surcharges on credit card transactions may only be permitted
2 when certain notice requirements are adhered to and would provide for a misdemeanor penalty of
3 five hundred dollars (\$500) and/or one year in jail for any violations.

4 This act would take effect upon passage.

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