

ENGROSSED HOUSE
BILL NO. 1294

By: Cox, Liotta and Reese of
the House

and

Leftwich of the Senate

An Act relating to contracts; declaring certain transactions to be unlawful; defining terms; amending 15 O.S. 1991, Section 757, which relates to investigations; expanding scope of Attorney General investigations under Consumer Protection Act; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 753.1 of Title 15, unless there is created a duplication in numbering, reads as follows:

A. A person engages in a practice declared to be unlawful and subject to the provisions of the Oklahoma Consumer Protection Act when, in the course of the person's business, the person:

1. Executes a consumer transaction with a cardholder of a credit card or debit card where the cardholder automatically and repeatedly incurs a fee on the credit card or debit card unless or until the cardholder expresses an intent to cancel involvement in the consumer transaction; or

2. Executes more than one consumer transaction over the telephone or by electronic means on a cardholder's credit card or debit card without the express consent of the cardholder.

B. As used in this section:

1. "Cardholder" means the person or organization named on the face of the credit card or a debit card to whom or for whose benefit the credit card or debit card is issued;

2. "Credit card" means any instrument or device whether known as a credit card, credit plate, charge plate or by any other name, issued with or without fee by an issuer for the use of a cardholder in obtaining money, goods, services or anything else of value on credit;

3. "Debit card" means any instrument or device, whether known as a debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds from a consumer banking electronic facility; and

4. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

SECTION 2. AMENDATORY 15 O.S. 1991, Section 757, is amended to read as follows:

Section 757. A. When the Attorney General or a district attorney has reason to believe a person has engaged in, is engaging in or is about to engage in any practice declared to be unlawful by Section 753 of this title or Section 1 of this act, and he believes it to be in the public interest that an investigation should be made to ascertain whether a person has in fact engaged in, is engaging in or is about to engage in any such practice, he may execute in writing and cause to be served upon any such person who is believed to have information, documentary material or physical evidence relevant to the alleged violation an investigative demand requiring such person to furnish, under oath or otherwise, a report in writing setting forth the nonprivileged relevant facts and circumstances of which he has knowledge, or to appear and testify, or to produce relevant nonprivileged documentary material or physical evidence for examination at such reasonable time and place as may be stated in the investigative demand, concerning the advertisement, offering for sale, sale or distribution of any subject of a consumer transaction

or the conduct of any trade or commerce that is the subject matter of the investigation.

B. At any time before the return date specified in an investigative demand, or within twenty (20) days after the demand has been served, whichever period is shorter, a petition to extend the return date, or to modify or to set aside the demand, stating good cause, may be filed in the district court of the county where the person served with the demand resides or has his principal place of business, or in the district court of Oklahoma County, Oklahoma. At any time, an extension of the return date or a modification or setting aside of the demand may be made by agreement of the parties.

SECTION 3. This act shall become effective November 1, 2001.

Passed the House of Representatives the 27th day of February, 2001.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2001.

Presiding Officer of the Senate