STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1774

By: Laster and Jolley of the Senate

and

Denney of the House

COMMITTEE SUBSTITUTE

An Act relating to credit card transactions; amending 14A O.S. 2011, Sections 2-211 and 2-417, which relate to imposition of a surcharge for the use of credit or debit cards; allowing private educational institutions to charge a convenience fee; providing limit on certain fee; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 14A O.S. 2011, Section 2-211, is amended to read as follows:

Section 2-211. A. With respect to all sales transactions, a discount which a seller offers, allows or otherwise makes available for the purpose of inducing payment by cash, check or similar means rather than by use of an open-end credit card account shall not constitute a credit service charge as determined under Section 2-109 of this title if the discount is offered to all prospective buyers

clearly and conspicuously in accordance with regulations of the Administrator of Consumer Affairs. No seller in any sales transaction may impose a surcharge on a cardholder who elects an open-end credit card or debit card account instead of paying by cash, check or similar means. There is no limit on the discount which may be offered by the seller. A seller who provides a discount otherwise than in accordance with the regulations of the Administrator must make the disclosures required by those regulations.

B. A seller who is registered with the United States Treasury Department as a money transmitter pursuant to 31 CFR, Section 103.41, and who provides an electronic funds transmission service, including service by telephone and the Internet, may charge a different price for a funds transmission service based on the mode of transmission used in the transaction without violating this section so long as the price charged for a service paid for with an open-end credit card or debit card account is not greater than the price charged for such service if paid for with currency or other similar means accepted within the same mode of transmission.

C. Any seller subject to the provisions of subsection B of this section shall either conduct business at a location in this state or comply with the provisions of Section 1022 of Title 18 of the Oklahoma Statutes.

D. As used in this section, "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.

E. For purposes of this section, a private educational institution as defined in paragraph (e) of Section 3102 of Title 70 of the Oklahoma Statutes may charge a convenience fee. The convenience fee shall be limited to bank processing fees and financial transaction fees, the cost of providing for secure transaction, portal fees, and fees necessary to compensate for increased bandwidth incurred as a result of providing for an online transaction.

SECTION 2. AMENDATORY 14A O.S. 2011, Section 2-417, is amended to read as follows:

Section 2-417. A. No seller in any sales transaction may impose a surcharge on a cardholder who elects to use a credit card or debit card in lieu of payment by cash, check or similar means.

B. As used in this section, "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.

C. For purposes of this section, a private educational institution as defined in paragraph (e) of Section 3102 of Title 70 of the Oklahoma Statutes may charge a convenience fee. The convenience fee shall be limited to bank processing fees and financial transaction fees, the cost of providing for secure transaction, portal fees, and fees necessary to compensate for increased bandwidth incurred as a result of providing for an online transaction.

SECTION 3. This act shall become effective July 1, 2012.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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