

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 473

By: Sparks of the Senate

and

Osborn (Leslie) and Loring
of the House

11 COMMITTEE SUBSTITUTE

12 An Act relating to Consumer Credit Code; amending 14A
13 O.S. 2011, Section 2-417, as last amended by Section
14 2, Chapter 31, O.S.L. 2017 (14A O.S. Supp. 2017,
15 Section 2-417, which relates to credit or debit card
16 surcharges; modifying transactions incurring service
17 fees; authorizing surcharge of bank processing fee
18 for use of credit cards on certain activities or
19 transactions; limiting surcharge to actual bank
20 processing fees; requiring certain disclosure;
21 construing provisions; providing for codification;
22 and providing an effective date.

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

24 SECTION 1. AMENDATORY 14A O.S. 2011, Section 2-417, as
last amended by Section 2, Chapter 31, O.S.L. 2017 (14A O.S. Supp.
2017, Section 2-417), is amended to read as follows:

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

4 B. As used in this section, "debit card" means any instrument
5 or device, whether known as a debit card or by any other name,
6 issued with or without fee by an issuer for the use of the
7 cardholder in depositing, obtaining or transferring funds from a
8 consumer banking electronic facility.

9 C. For purposes of this section, a private educational
10 institution as defined in paragraph (e) of Section 3102 of Title 70
11 of the Oklahoma Statutes, a private school defined as a nonpublic
12 entity conducting an educational program for at least one grade
13 between prekindergarten through twelve, a municipality as defined in
14 paragraph 5 of Section 1-102 of Title 11 of the Oklahoma Statutes or
15 a public trust with a municipality as its beneficiary may charge a
16 service fee. The service fee shall be limited to bank processing
17 fees and financial transaction fees, the cost of providing for
18 secure transaction, portal fees, and fees necessary to compensate
19 for increased bandwidth incurred as a result of providing for ~~an~~
20 ~~online~~ the transaction.

21 SECTION 2. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2-418 of Title 14A, unless there
23 is created a duplication in numbering, reads as follows:

24

1 With respect to a person acting on behalf of a principal in a
2 lawful business activity or transaction in which money is advanced
3 or paid by credit card to the agent, and deposited in the agent's
4 lawful trust, escrow or holding account, the person acting on behalf
5 of the principal may surcharge the credit card processing fee
6 incurred. No credit card surcharge shall exceed the actual bank
7 processing fee. All surcharges and amounts must be fully disclosed
8 as part of the agreement for services by the agent. Such activity
9 or transaction must not require a charter, license or registration
10 as a trust and must be an exempt activity as provided in Section
11 1706 of Title 6 of the Oklahoma Statutes. Any credit card surcharge
12 authorized by this section shall not be deemed contrary to any
13 provision of Section 2-211 or Section 2-417 of Title 14A of the
14 Oklahoma Statutes for sales transactions. The provisions of this
15 section shall not authorize any additional fees or charges regulated
16 or prohibited by any other provision of law or by any contractual
17 provision.

18 SECTION 3. This act shall become effective January 1, 2019.

19

20 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04/16/2018 - DO
21 PASS, As Amended and Coauthored.

22

23

24

25