

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 4351

By: Hill

COMMITTEE SUBSTITUTE

An Act relating to the Uniform Consumer Credit Code; defining terms; allowing surcharges in certain transactions; limiting surcharge amount; requiring certain disclosures; limiting application of surcharge in a single transaction; prohibiting surcharges in certain transactions; creating liability for violation; repealing 14A O.S. 2021, Section 2-417, which prohibits surcharges; amending 14A O.S. 2021, Section 2-211, which relates to discounts; deleting surcharge prohibition; 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 2-418 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "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;

1 2. "Charge card" includes cards on which unpaid balances are
2 payable on demand;

3 3. "Surcharge" means any additional amount imposed at the time
4 of the sales or lease transaction by the seller or lessor that
5 increases the charge to the buyer or lessee for the privilege of
6 using a credit or charge card.

7 B. In accordance with this section, a seller or lessor in any
8 sales or lease transaction may impose a surcharge on a buyer or
9 lessee who elects to use a credit card or charge card in lieu of
10 payment by cash, check, or similar means.

11 C. A seller or lessor doing business in Oklahoma may impose a
12 surcharge of an amount not to exceed two percent (2%) of the total
13 cost to the buyer or lessee for the sales or lease transaction.
14 Such seller or lessor that imposes a surcharge on credit cards or
15 charge cards shall post signage at the seller's or lessor's premises
16 in a manner that is visible to customers or, for a sales or lease
17 transaction made online, display before an online customer's
18 completion of the sales or lease transaction in a manner that is
19 visible to the online customer, the following language:

20 "TO COVER THE COST OF PROCESSING A CREDIT OR CHARGE CARD
21 TRANSACTION, AND PURSUANT TO SECTION 2-418 OF TITLE 14A OF THE
22 OKLAHOMA STATUTES, A SELLER OR LESSOR MAY IMPOSE A PROCESSING
23 SURCHARGE IN AN AMOUNT NOT TO EXCEED TWO PERCENT (2%) OF THE TOTAL
24 PAYMENT MADE FOR GOODS OR SERVICES PURCHASED OR LEASED BY USE OF A

1 CREDIT OR CHARGE CARD. A SELLER OR LESSOR MAY NOT IMPOSE A
2 PROCESSING SURCHARGE ON PAYMENTS MADE BY USE OF CASH, CHECK, OR
3 DEBIT CARD OR REDEMPTION OF A GIFT CARD.";

4 The processor or service provider may provide the seller or
5 lessor with the means to make the disclosure required by this
6 subsection.

7 D. For any goods or services purchased or leased through
8 payment by credit card or charge card, the seller, lessor,
9 processor, or service provider shall provide the surcharge amount
10 imposed as a separate line item on the customer's receipt.

11 E. A seller or lessor may impose only a single credit card or
12 charge card surcharge per sales or lease transaction.

13 F. A seller or lessor shall not impose a surcharge if a
14 customer elects to pay for goods or services by:

15 1. Using cash or check;

16 2. Using a debit card, whether or not a personal identification
17 number is used;

18 3. Processing a payment as a debit payment; or

19 4. Redeeming a gift card.

20 G. A seller or lessor who violates this section violates the
21 Uniform Consumer Credit Code and is subject to liability under the
22 Code.

23 SECTION 2. REPEALER 14A O.S. 2021, Section 2-417, is
24 hereby repealed.

1 SECTION 3. AMENDATORY 14A O.S. 2021, Section 2-211, is
2 amended to read as follows:

3 Section 2-211. A. With respect to all sales transactions, a
4 discount which a seller offers, allows or otherwise makes available
5 for the purpose of inducing payment by cash, check or similar means
6 rather than by use of an open-end credit card account shall not
7 constitute a credit service charge as determined under Section 2-109
8 of this title if the discount is offered to all prospective buyers
9 clearly and conspicuously in accordance with regulations of the
10 Administrator of Consumer Affairs. ~~No seller in any sales~~
11 ~~transaction may impose a surcharge on a cardholder who elects an~~
12 ~~open-end credit card or debit card account instead of paying by~~
13 ~~cash, check or similar means.~~ There is no limit on the discount
14 which may be offered by the seller. A seller who provides a
15 discount otherwise than in accordance with the regulations of the
16 Administrator must make the disclosures required by those
17 regulations.

18 B. A seller who is registered with the United States Treasury
19 Department as a money transmitter pursuant to 31 CFR, Section
20 103.41, and who provides an electronic funds transmission service,
21 including service by telephone and the Internet, may charge a
22 different price for a funds transmission service based on the mode
23 of transmission used in the transaction without violating this
24 section so long as the price charged for a service paid for with an

1 open-end credit card or debit card account is not greater than the
2 price charged for such service if paid for with currency or other
3 similar means accepted within the same mode of transmission.

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

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

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

SECTION 4. This act shall become effective November 1, 2022.

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