

SENATE BILL NO. 254

BY SENATOR MIZELL

1 AN ACT

2 To enact Chapter 52 of Title 51 of the Louisiana Revised Statutes of 1950, to be comprised  
3 of R.S. 51:3081 and 3082, relative to debit card surcharges; to prohibit certain excess  
4 surcharges; to provide for liability; to provide for a private right of action; to provide  
5 for reporting requirements; to provide for enforcement; to provide for civil penalties;  
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Chapter 52 of Title 51 of the Louisiana Revised Statutes of 1950,  
9 comprised of R.S. 51:3081 and 3082, is hereby enacted to read as follows:

10 CHAPTER 52. DEBIT CARD SURCHARGE

11 §3081. Debit card surcharge; prohibiting certain excess fees; liability;  
12 definitions

13 A. As used in this Chapter:

14 (1) "Cardholder" means the person named on the face of a debit card to  
15 whom or for whose benefit the debit card is issued by an issuer and includes any  
16 employee or other agent or authorized user of the card.

17 (2) "Debit card" means a card or other payment device that debits funds  
18 directly from a cardholder's deposit account.

19 (3) "Retail business" means any person or entity engaged in the sale of  
20 goods or services.

21 (4) "Surcharge" means any additional amount of money imposed at the  
22 time of the transaction by a retail business that increases the charge to the  
23 cardholder for the privilege of using a debit card.

24 B. In a sale of goods or services, a retail business shall not impose a  
25 surcharge on a cardholder who uses a debit card instead of cash, check, credit  
26 card, or any other similar means of payment.

27 C.(1) A retail business that violates the provisions of this Section shall be

1 liable to the cardholder for actual damages incurred as a result of the violation.

2 (2) Prior to filing a civil action, a cardholder shall provide written notice  
3 of the alleged violation to the retail business. If the retail business cures the  
4 violation and reimburses the cardholder for any surcharge assessed within  
5 thirty days after receipt of written notice, no private right of action shall arise  
6 from the alleged violation.

7 (3) A private right of action pursuant to this Section shall apply only to  
8 willful violations, repeated violations, or violations that are not cured within the  
9 time period provided in Paragraph (2) of this Subsection.

10 (4) Nothing in this Section shall limit the authority of the attorney  
11 general to enforce the provisions of this Chapter pursuant to R.S. 51:3082.

12 §3082. Enforcement; penalties; reporting

13 A.(1) The attorney general may bring a civil action against a retail  
14 business that violates the provisions of this Chapter.

15 (2) If a court of competent jurisdiction grants judgment or injunctive  
16 relief to the attorney general, the court shall award the attorney general  
17 reasonable attorney fees, court costs, and investigative costs.

18 (3) A person who violates an administrative order or court order issued  
19 for a violation of this Section shall be subject to a civil penalty of not more than  
20 five hundred dollars for each violation. A civil penalty may be imposed in any  
21 civil action brought by the attorney general.

22 (4) All monies received from the payment of a fine or civil penalty  
23 imposed and collected pursuant to the provisions of this Section shall be used  
24 by the attorney general to promote consumer protection and education.

25 B. The attorney general shall establish and maintain a toll-free telephone  
26 number and an electronic reporting system for cardholders to report an  
27 unlawful surcharge on a debit card.

28 C. Any cardholder who is assessed a surcharge in violation of this  
29 Chapter for the use of a debit card may submit a complaint to the attorney  
30 general through the toll-free number or electronic reporting system established

1 pursuant to Subsection B of this Section. The complaint shall include all of the  
2 following information:

3 (1) The name and address of the retail business.

4 (2) The date and amount of the transaction.

5 (3) The amount of the surcharge imposed.

6 (4) Any receipt, invoice, or other documentation evidencing the  
7 surcharge.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_