

Regular Session, 2010

HOUSE BILL NO. 344

BY REPRESENTATIVE MICHAEL JACKSON

CREDIT/CARDS: Prohibits a surcharge on credit card transactions

1 AN ACT

2 To enact R.S. 9:3518.4, relative to credit card transactions; to prohibit a surcharge on credit
3 card transactions; to provide for an exemption; to provide for a penalty; and to
4 provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 9:3518.4 is hereby enacted to read as follows:

7 §3518.4. Credit card transactions; prohibitions; exemptions; penalty

8 A. No seller or lessor in any sales or lease transaction with a consumer shall
9 impose a surcharge on a cardholder who elects to use a credit or debit card in lieu of
10 payment by cash, check, or similar means. For the purposes of this Section,
11 "surcharge" means any additional amount of money imposed at the time of the sales
12 or lease transaction by the merchant, seller, or lessor that increases the charge to the
13 buyer or lessee for the privilege of using a credit card.

14 B. Notwithstanding Subsection A of this Section, a governmental subdivision
15 may impose a surcharge for payments made with a credit or debit card for taxes,
16 finances, charges, utility fees, regulatory fees, license or permit fees, or the provision of
17 a specific service provided by that governmental subdivision if the surcharge is
18 disclosed clearly to the cardholder prior to payment and does not exceed the costs
19 associated with providing the credit or debit card service that are directly incurred

1 by the governmental subdivision or assessed by an authorized third-party payment
2 service provider for a credit or debit card transaction.

3 C. Notwithstanding Subsection A of this Section, a public utility regulated
4 by the Louisiana Public Service Commission may impose a surcharge for payments
5 made with a credit or debit card for utility fees and charges if the surcharge is
6 disclosed clearly to the cardholder prior to payment and does not exceed the costs
7 associated with providing the credit or debit card service that is directly incurred by
8 the public utility or is assessed by an authorized third-party payment service provider
9 or is charged and collected by a designated third-party for a credit or debit card
10 transaction.

11 D. Any seller or lessor who willfully violates the provisions of this Section
12 by imposing a surcharge on a cardholder who elects to use a credit or debit card and
13 who fails to pay that amount to the cardholder within thirty days of a written demand
14 by the cardholder to the seller or lessor by certified mail, shall be liable to the
15 cardholder for three times the amount at which actual damages are assessed. The
16 cardholder shall also be entitled to recover reasonable attorney fees and costs
17 incurred in the action. A cause of action under this Section may be brought in small
18 claims court, if applicable, or in a court of competent jurisdiction.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Michael Jackson

HB No. 344

Abstract: Prohibits a surcharge on credit or debit card transactions.

Proposed law prohibits a seller or lessor in any sales or lease transaction with a consumer to impose a surcharge on a cardholder who elects to use a credit or debit card in lieu of payment by cash, check, or similar means.

Proposed law provides for the definition of "surcharge".

Proposed law exempts governmental subdivision and public utilities from provisions of proposed law if the surcharge is disclosed clearly to the cardholder prior to payment and does not exceed the costs associated with providing the credit or debit card service that is directly incurred by the governmental subdivision or assessed by an authorized third-party payment service provider for a credit or debit card transaction.

Proposed law provides that whomever violates the provisions of proposed law to pay to the cardholder, within 30 days of written demand, the amount of the transaction or if not within 30 days, shall be liable three times the amount at which actual damages are assessed.

Proposed law also allows for the recovery of attorney fees and costs.

(Adds R.S. 9:3518.4)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Commerce to the original bill.

1. Included debit cards in the surcharge prohibition.
2. Exempted public utilities regulated by the Public Service Commission from the surcharge prohibition.