

HOUSE No. 01034

The Commonwealth of Massachusetts

PRESENTED BY:

Steven M. Walsh

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the prevention of credit card company unfair business practices.

PETITION OF:

NAME:

Steven M. Walsh

DISTRICT/ADDRESS:

11th Essex

HOUSE No. 01034

By Mr. Steven M. Walsh of Lynn, petition (accompanied by bill, House, No. 01034) of Steven M. Walsh relative to the prevention of credit card company unfair business practices. Joint Committee on Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the prevention of credit card company unfair business practices.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. Section 1 of Chapter 140D of the General Laws, as appearing in the 2008 Official
2 Edition, is hereby amended by inserting before the definition of “Material Disclosure” the
3 following definition: -
- 4 “Electronic Payment Network” , an entity, other than a national bank, that directly, or through
5 licensed members, processors or agents, provides the proprietary services, infrastructure, and
6 software that route information and data to facilitate transaction authorization, clearance, and
7 settlement, and that merchants access in order to accept a brand of general-purpose credit cards,
8 charge cards, debit cards or stored-value cards as payment for goods or services.
- 9 SECTION 2. Said Chapter 140D is hereby further amended by inserting in Section 1 before the
10 definition of “Open-end-credit plan” the following definition: -

11 “Merchant”, a person or entity doing business in this state which offers goods or services for sale
12 in this state.

13 SECTION 3. Said Chapter 140D is hereby further amended by inserting after section 28B the
14 following section: -

15 Section 28C. (a) An electronic payment network shall not, directly or through any agent,
16 acquirer, processor or member of the system: (i) impose any requirement, condition, penalty, or
17 fine in a contract with a merchant relative to the display of pricing for goods or services for sale
18 by the merchant; (ii) inhibit the ability of any merchant to offer its customers discounts or in-
19 kind incentives for using a form of payment; (iii) inhibit the ability of any merchant to offer its
20 customers discounts or in-kind incentives for using a debit or credit card of another electronic
21 payment system; (iv) prevent any merchant from setting a minimum or maximum dollar value
22 for its acceptance of a credit card; (v) inhibit the ability of any merchant to decide not to accept
23 the products of an electronic payment system at one of its locations; (vi) prevent any merchant
24 from deciding not to accept certain products of an electronic payment system based on the fees
25 associated with such products while still accepting other products of that electronic payment
26 system; or (vii) prevent any merchant from choosing how to route a transaction among any of the
27 electronic payment networks authorized to clear transactions on the card in question.

28 (b) An electronic payment network shall not set required, suggested, or default rates for the fees
29 to be charged by any issuer of its payment cards, agent, processor or member of the system for
30 transactions occurring within this state unless such issuer, agent or processor is the electronic
31 payment system itself and not a separate legal entity.

32 SECTION 4. Said Chapter 140D is hereby further amended by inserting in section 32 the
33 following paragraphs: -

34 (h) (1) Any electronic payment network that fails to comply with any requirement imposed under
35 section 28C of this chapter shall reimburse all affected merchants for all chargebacks, fees, and
36 fines collected from affected merchants directly or through any agent, processor or member of
37 the system during the period of time in which the electronic payment system was in violation; (2)
38 shall be liable for a civil penalty of \$10,000 per chargeback, fee or fine levied in violation of said
39 section; (3) any merchant whose rights under this section have been violated may maintain a
40 civil action for damages or equitable relief; and (4) the attorney general may maintain a civil
41 action for damages or equitable relief as provided for in this section to protect against violations
42 of this chapter.