

SENATE No. 00133

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

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 to protect consumers that hold credit cards..

PETITION OF:

NAME:

Karen E. Spilka

Anne M. Gobi

DISTRICT/ADDRESS:

Second Middlesex and Norfolk

5th Worcester

SENATE No. 00133

By Ms. Spilka, petition (accompanied by bill, Senate, No. 133) of Gobi and Spilka for legislation to protect consumers who hold credit cards [Joint Committee on Consumer Protection and Professional Licensure].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ SENATE
□ , NO. 177 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to protect consumers that hold credit cards..

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. Chapter 26 of the General Laws, as appearing in the 2008 Official
2 Edition, is hereby amended by inserting after section 5A the following new section:-

3 Section 5B. Consumer Credit Card Protection.

4 (a) Definitions. The following words and phrases when used in this section shall have
5 the following meanings:--

6 “Card holder”, any person to whom a credit card is issued or any person who has agreed with the
7 card issuer to pay obligations arising from the issuance of a credit card to another person.

8 “Card issuer” or “issuer”, any bank, retailer, corporate entity, bank holding company, or other
9 financial or commercial institution, or any individual who issues a credit card, or the agent of
10 such person with respect to such card.

11 “Commissioner”, the commissioner of banks.

12 “Consumer”, A natural person whose money, property, or services are the subject of
13 transactions.

14 “Credit”, the right granted by a creditor to a debtor to defer payment of debt or to incur debt and
15 defer its payment.

16 “Credit card”, any card, plate, coupon book, or other credit device existing for the purpose of
17 obtaining money, property, labor, or services on credit, including temporary credit cards, such as
18 paper slips containing an account number, issued for use while a permanent credit card is
19 manufactured.

20 (b) Purpose

21 Whereas the Annual Percentage Rate established by the federal Truth in Lending Act is
22 not alone a sufficient vehicle for comparison between credit card contracts; and

23 Whereas disclosure law is not sufficient to eliminate all predatory lending and
24 solicitation practices in the issuance of credit cards; and

25 Whereas regulation of debt counseling agencies has not prevented abuses against
26 consumers who have acquired significant credit card debt; and

27 Whereas the use of credit cards is common among consumers nation-wide; and

28 Whereas the Commonwealth is barred by federal law from regulating many substantive
29 terms of credit card contracts between out-of-state credit card issuers and Massachusetts
30 consumers;

31 Therefore, it is the intent of the General Court to increase consumer education within
32 the Commonwealth regarding the practices of credit card issuers and to enhance consumer
33 choice.

34 (c) It is the intent of the General Court to develop an effective system for enabling
35 Massachusetts consumers to make informed decisions regarding the acceptance of credit card
36 contracts and the acquisition and management of credit card debt. This system shall include the
37 creation of a rubric and grading mechanism for credit card issuers and their contracts, rely on
38 enhanced disclosure requirements in credit card advertisements and solicitation materials,
39 involve the development of state consumer counseling services for holders of credit cards,
40 promote competition between credit card issuers, and increase the availability of credit-card
41 alternatives.

42 (d) Creation of the office of credit card information services

43 (1) There shall be an office of credit card information services, in this chapter called
44 the office, and a director of credit card information services who shall have and shall exercise
45 supervision and control of the office. The commissioner of banks shall appoint, with the
46 approval of the governor, the director of credit card information services, who shall serve at the
47 pleasure of the commissioner and may be removed by the commissioner at any time, subject to
48 approval by the governor. The director shall appoint and may remove such agents and
49 subordinate officers as the director may deem necessary.

50 (2) The office of credit card information services shall have the power to enforce the
51 provisions of this Act, and to levy fines and other civil or criminal penalties against violators of
52 this Act.

53 (e) Credit Card Issuer Grading

54 The office of credit card information services shall establish a rubric for grading the lending
55 practices of credit card issuers that contract with credit card holders and solicit consumers in the
56 Commonwealth.

57 (1) The rubric shall rely upon the following criteria, considering generally the bulk of
58 an issuer's contracts, correspondences, transactions, advertisements, and solicitations and all of
59 an issuer's credit card programs, if the issuer offers several, within Massachusetts:

60 (i) The issuer's overall compliance with disclosure law;

61 (ii) The issuer's debt-collection practices;

62 (iii) The issuer's customer service record;

63 (iv) The issuer's fees and interest charges as compared with other issuers or
64 credit lenders;

65 (A) The understandability of the issuer's credit card contracts,
66 solicitations, and advertisements;

67 (B) The extent to which the issuer engages in intentionally
68 misleading practices or disseminates purposely misleading correspondences, advertisements, or
69 solicitations; and

70 (C) Any other factors which the office reasonably deems to be in
71 accordance with the purpose and goals of this Act.

72 (2) Said rubric shall be publically disseminated and made available online.

73 (3) The office shall review the rubric at least once annually and shall update the rubric
74 as is necessary to respond to the changing needs of Massachusetts consumers.

75 (4) The office shall give any credit card issuer which contracts with or solicits
76 consumers in the Commonwealth an A, B, C, D or F grade corresponding to the issuer's
77 placement on the rubric.

78 (i) Issuer grades shall be given on a curve to ensure that the rubric and
79 grading system is a vehicle for comparing issuers to one another rather than to a static set of
80 criteria.

81 (A) No more than 15% and no fewer than 5% of issuers shall
82 receive an A grade.

83 (B) No more than 50% of issuers shall receive a B grade.

84 (C) No more than 50% of issuers shall receive a C grade.

85 (D) No more than 50% of issuers shall receive a D grade.

86 (E) No more than 15% of issuers shall receive an F grade.

87 (F) No fewer than 10% of issuers shall receive a grade lower than

88 C.

89 (G) The office may, five years after this Act goes into effect,
90 discard the percentage requirements contained in provisions (a) through (f) of this subsection if
91 the office finds that the practices of credit card issuers have undergone enough change to merit
92 different curve requirements.

93 (ii) The office shall review individual issuer grades annually and update
94 such grades if the issuer's practices have changed, the rubric has changed, or as the office deems
95 necessary. The office may change an issuer's grade before the annual review if the issuer is
96 found to be in violation of this act or if the issuer has committed an extreme deviation from its
97 usual practices.

98 (iii) The office shall notify a credit card issuer of a change in grade, whether
99 pursuant to annual review or otherwise.

100 (iv) A credit card issuer may appeal its grade to the office. The office shall
101 establish an internal appeals process for this purpose and shall have discretion to determine its
102 own appeals procedure. The office may deny appeals that it reasonably finds lack merit.

103 (v) A credit card issuers may petition to change its individual grade prior to
104 the next annual review if the issuer's practices have changed or if office of credit card
105 information services has updated the rubric in such a way that may potentially impact the
106 issuer's grade. The office shall establish an internal system for reviewing such petitions and
107 shall have discretion to determine its petition review procedure. The office may deny petitions
108 that it reasonably finds lack merit.

109 (vi) Each credit card issuer shall print the grade that it is assigned by the
110 Massachusetts office of credit card information services in the upper left corner of the front or

111 only page of any still advertisement it disseminates within the Commonwealth, including but not
112 limited to fliers, magazine pages, pamphlets, bill boards, floor stands, window hangings,
113 posters, post cards, and cardboard cut outs, and on any letter, pamphlet, booklet, flier, postcard
114 or other printed material solicitation that is sent by mail to any individual person or household,
115 named or unnamed, within the state of Massachusetts.

116 (A) If such mailing contains multiple, separate pamphlets, letters,
117 booklets or other print material solicitation, the issuer shall print its grade at the top left corner of
118 the front or only page of each such solicitation.

119 (B) The grade shall be printed in red ink inside of a white box.
120 The white box shall be no smaller than five percent of the surface area of the largest page
121 contained within the solicitation or advertisement. The grade shall be printed to fit exactly inside
122 the white box.

123 (C) There shall be nothing printed directly above or to the left of
124 the grade. Directly beneath each grade box shall be printed in red ink the words “rating by the
125 Massachusetts office of credit card information services” on blank, white space in size ten font or
126 larger.

127 (D) In the event that an advertisement or solicitation is irregularly
128 shaped and does not have an upper left corner, the grade box shall be printed within the top
129 twenty percent of the page subject to all other provisions for regularly shaped pages.

130 (vii) Radio credit card advertisements broadcast within Massachusetts shall
131 verbally disclose the issuer’s grade by clearly stating, “[name of issuer] is rated [grade] by the
132 Massachusetts office of credit card information services” at a normal talking speed.

133 (viii) Televised credit card advertisements broadcast within Massachusetts
134 shall verbally disclose the issuer's grade by clearly stating, "[name of issuer] is rated [grade] by
135 the Massachusetts office of credit card information services" at a normal talking speed and
136 display the grade in red against a white screen for the duration of the verbal disclosure. The
137 white space shall cover the entire screen and the grade shall be framed to an exact fit with the
138 screen.

139 (f) Misleading Information

140 No credit card issuer shall refer to a print material disseminated within Massachusetts as a
141 "questionnaire," "survey," or a synonym therefore unless the issuer intends to use that print
142 material specifically and exclusively for its own information gathering purposes. A
143 questionnaire or survey may not be printed on the same page as nor affixed to a document that
144 signifies a consumer's assent to any new contract terms, the purchase of any new product or
145 service, or payment of a new charge or fee.

146 (g) Targeting of consumers

147 Credit card issuers may not specifically target or concentrate advertising or solicitations in low-
148 income neighborhoods, localities with low English-literacy, or localities where large percentages
149 of the population have not completed high school. The office of credit card information shall
150 promulgate standards for determining when a credit card issuer is singling out such areas for
151 advertising or solicitation and shall issue regulations curbing these practices.

152 (h) Services

153 (1) The office of credit card information services shall take reasonable action to
154 inform the public of the services that it provides.

155 (2) The office of credit card information services shall conduct regular public
156 information sessions at high schools, colleges, community centers, and other places of public
157 gathering throughout the state. Public information sessions shall be conducted in such a way to
158 meet the following goals:

159 (i) Increasing financial literacy;

160 (ii) Addressing the questions of individuals regarding their specific credit
161 card contracts;

162 (iii) Aiding individuals to develop debt management skills;

163 (iv) Helping consumers to choose the right credit card for their individual
164 needs.

165 (3) The office of credit card information services shall offer an online help service to
166 address individuals' questions about credit cards, the terms of their own credit card contracts and
167 debt management. Such online help service may involve a public e-mail address, blogging,
168 forums or message boards, real time chat, or any other electronic methods the office chooses to
169 employ. The office shall also consider making available a telephone hotline.

170 (4) The office shall collect and disseminate information regarding various debt
171 counseling agencies that operate within the state of Massachusetts. The office shall rate such
172 agencies based on the extent to which they respond to the needs of indebted consumers and
173 promulgate a list of approved and unapproved debt counseling agencies, to be made available on

174 its website. The office shall refer indebted consumers to debt counseling agencies based on these
175 ratings and shall only refer consumers to those agencies that it has approved.

176 (5) The office shall not approve a debt counseling agency that:

177 (i) Regularly pressures consumers into debt repayment plans they cannot
178 afford;

179 (ii) Is affiliated with or funded by creditors or acts as a debt collection
180 service;

181 (iii) Claims to be able to positively alter a consumer's credit report for a fee;

182 (iv) Regularly misrepresent the terms of debt consolidation loans.