

FIRST REGULAR SESSION

SENATE BILL NO. 354

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHMITT.

Read 1st time February 20, 2013, and ordered printed.

TERRY L.SPIELER, Secretary.

1631S.03I

AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to credit card surcharge fees, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 407, RSMo, is amended by adding thereto one new section, to be known as section 407.441, to read as follows:

407.441. 1. As used in this section the following terms shall mean:

(1) "Credit card" or "debit card", any instrument or device, whether known as a credit card, credit plate, bank service card, banking card, check guarantee card, or debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money or merchandise on credit, or for use in an automated banking device to obtain any of the services offered through the device. The presentation of a credit card account number is deemed to be the presentation of a credit card;

(2) "Merchant", an owner or operator of any retail mercantile establishment, or online retailer that also has a physical location within the geographic boundaries of Missouri, or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator. A merchant includes a person who receives from an authorized user of a credit or debit card, or an individual the person believes to be an authorized user, a credit or debit card or information from a credit or debit card as the instrument for obtaining, purchasing, or receiving goods, services, money, or anything of value from the person;

(3) "Person", any natural person or his legal representative,

22 partnership, firm, for-profit or not-for-profit corporation, whether
23 domestic or foreign, company, foundation, trust, business entity or
24 association, and any agent, employee, salesman, partner, officer,
25 director, member, stockholder, associate, trustee or cestui que trust
26 thereof;

27 (4) "Surcharge", any additional amount imposed at the time of a
28 sale or lease transaction by the merchant that increases the charge to
29 the buyer or lessee for the privilege of using a credit card or debit card
30 to make payment. Charges imposed pursuant to approve state or
31 federal tariffs are not considered to be a surcharge, and charges made
32 under such tariffs are exempt from this section.

33 2. A merchant in a sales or lease transaction may not impose a
34 surcharge on the buyer or lessee for electing to use a credit card or
35 debit card in lieu of payment by cash, check, or similar means, if the
36 seller or lessor accepts payment by credit card or debit card. This
37 section does not apply to the offering of a discount for the purpose of
38 inducing payment by cash, check, or other means not involving the use
39 of a credit card, if the discount is offered to all prospective customers.

40 3. Any person or merchant who willfully and knowingly violates
41 the provisions in subsection 2 of this section shall be guilty of a class
42 D felony.

43 4. The violation of subsection 2 of this section constitutes an
44 unlawful practice pursuant to sections 407.010 to 407.130, and the
45 violator shall be subject to all penalties, remedies and procedures
46 provided in sections 407.010 to 407.130. The attorney general shall have
47 all powers, rights, and duties regarding violations of this section as are
48 provided in sections 407.010 to 407.130, in addition to rulemaking
49 authority as provided in section 407.145.

✓