



MEMO

TO: House Commerce Committee Members
FROM: Michigan Retailers Association
SUBJECT: HB 4255
DATE: April 10, 2013

Michigan Retailers Association is the unified voice of Michigan's retail industry and represents more than 12,000 stores across the state. Prohibiting credit card surcharging is unnecessary and results in additional state regulations on business owners for an issue that has already been decided by the free market.

House Bill 4255 seeks to remedy a problem that does not exist. To our knowledge, none of our members, at this point, have implemented a surcharge. Prohibiting retailers from imposing a surcharge or any additional amount on the sale of an item purchased with a credit card is unnecessary.

In fact, very few retailers will even be able to meet the stringent criteria laid out in the Visa/MasterCard settlement in order to assess a surcharge. The Visa/MasterCard settlement sets up the following rules and corresponding dilemmas:

- Visa/MasterCard require a retailer to have the same acceptance policies in all its stores. Ten states currently prohibit credit card surcharges. Retailers with stores in any of the ten states that ban surcharges are not able to surcharge in Michigan.
- The settlement requires retailers that assess a surcharge to also surcharge all credit cards, however, American Express contracts prohibit retailers from surcharging their cards. Thus, retailers that accept American Express are not able to surcharge.
- The settlement allows retailers to surcharge certain premium credit cards that carry higher swipe fees, like an airline rewards card for example, but does not give retailers a way to identify those cards.
- Retailers must provide 30-days notice to the Visa/MasterCard before they begin surcharging.
- Notice of the surcharge must be posted in the store for customers and relayed to Visa/MasterCard.
- Receipts must separately itemize the surcharge amount, requiring retailers to reprogram or replace point of sale systems. Software to update point of sale systems has not been developed. Retailers, or their merchant processors, interested in surcharging would need to write the necessary code for these systems themselves.

Though some small retailers may be able to meet the stringent criteria and surcharge, it is highly unlikely they will do so. The customer-ill will from surcharging is enough of a deterrent for most. This legislation is unnecessary and is inconsistent with Governor Snyder's attempt to eliminate duplicative and unnecessary state regulations.

Thank you,

A handwritten signature in blue ink, appearing to read 'William J. Hallan'.

William J. Hallan
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