

By: Turner of Tarrant

H.B. No. 3240

A BILL TO BE ENTITLED

AN ACT

relating to a surcharge imposed for the use of a debit card or stored value card; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter E, Chapter 59, Finance Code, is transferred to Title 12, Business & Commerce Code, redesignated as Chapter 604A, Business & Commerce Code, and amended to read as follows:

CHAPTER 604A [~~SUBCHAPTER E~~]. PROHIBITION OF SURCHARGE

Sec. 604A.001 [~~59.401~~]. DEFINITIONS. In this chapter [~~subchapter~~]:

(1) "Cardholder" means the person named on the face of a debit or stored value card to whom or for whose benefit the card is issued.

(2) "Debit card" has the meaning assigned by [~~in~~] Section 502.001 [~~Business & Commerce Code~~].

(3) "Merchant" means a person in the business of selling or leasing goods or services.

(4) "Stored value card" has the meaning as defined in Section 604.001(1), [~~Business & Commerce Code~~] but does not include the meaning as defined in Section 604.001(2) [~~Business & Commerce Code~~].

(5) "Surcharge" means an increase in the price charged for goods or services imposed on a buyer who pays with a debit or

1 stored value card that is not imposed on a buyer who pays by other  
2 means.

3       Sec. 604A.002 [~~59.402~~]. IMPOSITION OF SURCHARGE FOR USE OF  
4 DEBIT OR STORED VALUE CARD. (a) In a sale of goods or services, a  
5 merchant may not impose a surcharge on a buyer who uses a debit or  
6 stored value card instead of cash, a check, a credit card, or a  
7 similar means of payment.

8       (b) This section does not apply to a state agency, county,  
9 local governmental entity, or other governmental entity that  
10 accepts a debit or stored value card for the payment of fees, taxes,  
11 or other charges.

12       Sec. 604A.003. CIVIL PENALTY; INJUNCTIVE RELIEF. (a) A  
13 person who violates this chapter is liable to the state for a civil  
14 penalty of \$1000 for each violation of this chapter. The attorney  
15 general or the prosecuting attorney in the county in which the  
16 violation occurs may bring:

17               (1) an action to recover the civil penalty imposed  
18 under this section; or

19               (2) an action in the name of the state to restrain or  
20 enjoin a person from violating this chapter.

21       (b) The attorney general or the prosecuting attorney in the  
22 county in which the violation occurs, as appropriate, is entitled  
23 to recover reasonable expenses incurred in obtaining civil  
24 penalties, injunctive relief, or both, under this section,  
25 including reasonable attorney's fees, court costs, and  
26 investigatory costs.

27       SECTION 2. The changes in law made by this Act apply only to

1 a sale of goods or services occurring on or after the effective date  
2 of this Act. A sale of goods or services occurring before the  
3 effective date of this Act is governed by the law in effect on the  
4 date the sale occurred, and the former law is continued in effect  
5 for that purpose.

6 SECTION 3. This Act takes effect September 1, 2015.