

**2013 DRAFTING REQUEST**

**Bill**

Received: **1/28/2013** Received By: **agary**  
 Wanted: **As time permits** Same as LRB:  
 For: **Dave Hansen (608) 266-5670** By/Representing: **Jon Mielke**  
 May Contact: Drafter: **agary**  
 Subject: **Fin. Inst. - int. rates/loans** Addl. Drafters:  
**Fin. Inst. - miscellaneous** Extra Copies:  
 Submit via email: **YES**  
 Requester's email: **Sen.Hansen@legis.wisconsin.gov**  
 Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

**Pre Topic:**

No specific pre topic given

**Topic:**

Prohibiting merchants from imposing surcharges on credit card transactions

**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 2/7/2013			_____			
/P1	agary 2/26/2013	scalvin 2/25/2013	jmurphy 2/25/2013	_____	lparisi 2/25/2013		
/1		scalvin 2/26/2013	rschluet 2/26/2013	_____	lparisi 2/26/2013	srose 2/26/2013	

FE Sent For:

↳ Not  
Needed

<END>

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FE Sent For:		11 SAC 02/26/2013					

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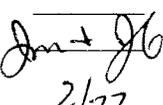
**Instructions:**

See attached

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/?	agary	1/1 sac 02/25/2013	 2/22	 2/22			
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FE Sent For:

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**Gary, Aaron**

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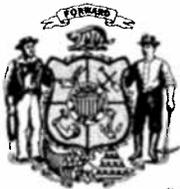
**From:** Mielke, Jon  
**Sent:** Monday, January 28, 2013 10:07 AM  
**To:** Gary, Aaron  
**Subject:** re: bill draft

Hi Aaron,

As of yesterday, retailers are now allowed to tack a surcharge of up to 4% onto purchases if the consumer pays with a credit card. Ten states currently prohibit these surcharges: California, Colorado, Connecticut, Florida, Kansas, Maine, Massachusetts, New York, Oklahoma and Texas. We would like to have a bill drafted which would prohibit it in Wisconsin as well.

Thanks,

Jon Mielke  
Office of Sen. Dave Hansen  
266-5670



in  
2/7



ARG...  
Sac

Tues  
Cen/W

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

D - Note

1 AN ACT <sup>gen act</sup> relating to: prohibiting merchants from imposing credit card  
2 surcharges in consumer credit transactions.

***Analysis by the Legislative Reference Bureau***

Under current law, a consumer credit transaction in which the amount financed is \$25,000 or less, and which is entered into for personal, family, or household purposes, is generally subject to the Wisconsin Consumer Act (WCA). The WCA grants consumers certain rights and remedies and contains notice and disclosure requirements and prohibitions relating to consumer credit transactions, including consumer credit sales. Under both the WCA and federal law, a credit card issuer generally may not prohibit a merchant from offering a discount to a customer to induce the customer to pay by cash, check, or similar means, rather than by use of a credit card.

This bill prohibits a merchant, in a consumer credit transaction, from imposing a surcharge (also known as a swipe fee, convenience fee, or checkout fee) on a customer for using a credit card in lieu of payment by cash, check, or similar means. However, the merchant may offer a discount to a customer to induce the customer to pay by cash, check, or similar means, rather than by use of a credit card. A merchant that violates this prohibition on credit card surcharges is liable to the customer in the amount of \$25 and any actual damages sustained by the customer.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1 SECTION 1. 422.422 (title) of the statutes is amended to read:

2 422.422 (title) **Cash discounts; credit card surcharges.**

3 History: 2005 a. 84.

3 SECTION 2. 422.422 of the statutes is renumbered 422.422 (1).

4 SECTION 3. 422.422 (2) of the statutes is created to read:

5 422.422 (2) (a) 1. A merchant honoring a credit card may not impose a  
6 surcharge on a customer for using the credit card in lieu of payment by cash, check,  
7 or similar means.

8 2. Notwithstanding subd. 1., a merchant may offer a discount to a customer to  
9 induce the customer to pay by cash, check, or similar means, rather than by use of  
10 a credit card.

11 (b) Charges for 3rd-party credit card guarantee services, when added to the  
12 price charged by the merchant if cash were to be paid, are considered surcharges for  
13 purposes of par. (a) 1. even if they are payable directly to the 3rd-party or are charged  
14 separately.

15 (c) For purposes of this subsection, a merchant does not include any  
16 governmental unit, as defined in s. 50.33 (1r).

17 SECTION 4. **Initial applicability.**

18 (1) This act first applies to transactions occurring on the effective date of this  
19 subsection.

20 SECTION 5. **Effective date.**

21 (1) This act takes effect on the first day of the 3rd month beginning after  
22 publication.

23 (END)



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1366/P1dn

.....  
ARG } sac  
===

- date

ATTN: Jon Mielke

Please review the attached draft carefully to ensure that it is consistent with your intent.

I have included these provisions in the Wisconsin Consumer Act (WCA). A related provision is already included there, see s. 422.422, stats., and most credit card regulation is found in the WCA. Unless a specific penalty is included in the draft, the penalty under s. 425.302 will apply, along with any other applicable remedy specified in ch. 425. I included created s. 422.422 (2) (c) in this draft to make clear that the bill does not prohibit agencies like DOT from imposing a convenience fee for allowing the customer to complete the transaction using a credit card.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1366/P1dn  
ARG:sac:jm

February 25, 2013

ATTN: Jon Mielke

Please review the attached draft carefully to ensure that it is consistent with your intent.

I have included these provisions in the Wisconsin Consumer Act (WCA). A related provision is already included there, see s. 422.422, stats., and most credit card regulation is found in the WCA. Unless a specific penalty is included in the draft, the penalty under s. 425.302 will apply, along with any other applicable remedy specified in ch. 425. I included created s. 422.422 (2) (c) in this draft to make clear that the bill does not prohibit agencies like DOT from imposing a convenience fee for allowing the customer to complete the transaction using a credit card.

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Phone: (608) 261-6926  
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**Gary, Aaron**

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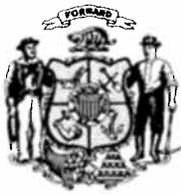
**From:** Mielke, Jon  
**Sent:** Tuesday, February 26, 2013 8:48 AM  
**To:** Gary, Aaron  
**Subject:** LRB1366/P1

Hi Aaron,

We had the chance to review it, the draft looks good to go.

Thanks,

Jon Mielke  
Office of Sen. Dave Hansen



TODAY



LRB-1366/VA/

ARG:sac:jm

rain

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

No changes - edited yest. day

gen act

1 **AN ACT to renumber 422.422; to amend 422.422 (title); and to create 422.422**  
2 **(2) of the statutes; relating to: prohibiting merchants from imposing credit**  
3 **card surcharges in consumer credit transactions.**

***Analysis by the Legislative Reference Bureau***

Under current law, a consumer credit transaction in which the amount financed is \$25,000 or less, and which is entered into for personal, family, or household purposes, is generally subject to the Wisconsin Consumer Act (WCA). The WCA grants consumers certain rights and remedies and contains notice and disclosure requirements and prohibitions relating to consumer credit transactions, including consumer credit sales. Under both the WCA and federal law, a credit card issuer generally may not prohibit a merchant from offering a discount to a customer to induce the customer to pay by cash, check, or similar means, rather than by use of a credit card.

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merchant that violates this prohibition on credit card surcharges is liable to the customer in the amount of \$25 and any actual damages sustained by the customer.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           SECTION 1. 422.422 (title) of the statutes is amended to read:

2           **422.422 (title) Cash discounts; credit card surcharges.**

3           SECTION 2. 422.422 of the statutes is renumbered 422.422 (1).

4           SECTION 3. 422.422 (2) of the statutes is created to read:

5           422.422 (2) (a) 1. A merchant honoring a credit card may not impose a  
6 surcharge on a customer for using the credit card in lieu of payment by cash, check,  
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8           2. Notwithstanding subd. 1., a merchant may offer a discount to a customer to  
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11           (b) Charges for 3rd-party credit card guarantee services, when added to the  
12 price charged by the merchant if cash were to be paid, are considered surcharges for  
13 purposes of par. (a) 1. even if they are payable directly to the 3rd-party or are charged  
14 separately.

15           (c) For purposes of this subsection, a merchant does not include any  
16 governmental unit, as defined in s. 50.33 (1r).

17           **SECTION 4. Initial applicability.**

18           (1) This act first applies to transactions occurring on the effective date of this  
19 subsection.

20           **SECTION 5. Effective date.**



**Parisi, Lori**

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**From:** Mielke, Jon  
**Sent:** Tuesday, February 26, 2013 1:46 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -1366/1 Topic: Prohibiting merchants from imposing surcharges on credit card transactions

Please Jacket LRB -1366/1 for the SENATE.