



2013 ASSEMBLY BILL 239

June 6, 2013 - Introduced by Representatives TRANEL, NASS, RIPP, JOHNSON, MURTHA, TAUCHEN, OHNSTAD, BERCEAU, BERNIER, RINGHAND and HEBL, cosponsored by Senators HANSEN, L. TAYLOR, LEHMAN and RISSER. Referred to Committee on Consumer Protection.

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.

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

ASSEMBLY BILL 239

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 **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.**

