



## 2003 ASSEMBLY BILL 83

February 20, 2003 - Introduced by Representatives SCHNEIDER, ALBERS, BIES, COGGS, COLON, J. LEHMAN, MCCORMICK, MUSSER, SINICKI, AINSWORTH and BOYLE, cosponsored by Senators ERPENBACH and RISSER. Referred to Committee on Financial Institutions.

1     **AN ACT to create** 138.25 of the statutes; **relating to:** credit card records and  
2     providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Current law is silent regarding a person's authority to sell information about holders of credit cards. Under this bill, a person (which includes a corporation) may not sell information about Wisconsin residents that is obtained from credit card transaction records. The bill provides for certain exceptions from this prohibition. First, the bill excepts disclosures to credit reporting agencies for the purpose of preparing a credit report and disclosures by credit reporting agencies. The bill also contains certain exceptions for disclosing information to affiliates of the person making the disclosure and to contractors or agents of the issuer for the purpose of performing functions for or on behalf of the issuer. Persons violating the disclosure provisions created in the bill are subject to a forfeiture of not more than \$10,000 for each violation. The bill also authorizes the Department of Justice to bring actions in circuit court to enjoin violations of the disclosure provisions.

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

3     **SECTION 1.** 138.25 of the statutes is created to read:

4     **138.25 Credit card records.** (1) **DEFINITIONS.** In this section:

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1 (a) “Affiliate,” when used in relation to any person, means a company that  
2 controls, is controlled by, or is under common control with the person.

3 (b) “Cardholder” has the meaning given in s. 943.41 (1) (b).

4 (c) “Consumer report” has the meaning given in 15 USC 1681a (d).

5 (d) “Consumer reporting agency” has the meaning given in 15 USC 1681a (f).

6 (e) “Fair Credit Reporting Act” means 15 USC 1681 to 1681v, as amended.

7 (f) “Financial transaction card” has the meaning given in s. 943.41 (1) (em).

8 (g) “Issuer” has the meaning given in s. 943.41 (1) (f).

9 **(2) DISCLOSURE PROHIBITED.** Except as provided in sub. (3), a person may not  
10 disclose to another person, for money or anything else of value, any information or  
11 data about a cardholder who is a resident of this state that is obtained by the person  
12 from financial transaction card transaction records.

13 **(3) EXCEPTIONS.** A person may disclose information about a cardholder if any  
14 of the following applies:

15 (a) The disclosure is made to a consumer reporting agency for purposes of a  
16 consumer report or by a consumer reporting agency as authorized under the Fair  
17 Credit Reporting Act.

18 (b) The disclosure is made to an affiliate of the person making the disclosure.  
19 The affiliate may not disclose any information received pursuant to this paragraph  
20 to a person other than the person who initially disclosed the information to the  
21 affiliate, unless the person who initially disclosed the information to the affiliate  
22 could make the disclosure under this section.

23 (c) If the issuer of the financial transaction card is a retailer, the disclosure is  
24 made to or by contractors or agents of the issuer for the purposes of performing  
25 functions for or on behalf of the issuer. The contractor or agent may not disclose any

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1 information received pursuant to this paragraph to a person other than the issuer,  
2 unless the issuer could make the disclosure under this section.

3 (4) FORFEITURE. A person who violates sub. (2) may be required to forfeit not  
4 more than \$10,000 for each violation. Each disclosure of information or data about  
5 one cardholder constitutes a separate violation.

6 (5) INJUNCTION. The department of justice may commence an action in circuit  
7 court in the name of the state to restrain by temporary or permanent injunction any  
8 act or practice constituting a violation of sub. (2).

9 (END)