



2011 SENATE BILL 258

October 25, 2011 – Introduced by Senators C. LARSON, TAYLOR and LASSA, cosponsored by Representatives RICHARDS, BERCEAU, E. COGGS, D. CULLEN, POPE-ROBERTS, RINGHAND, SINICKI, TURNER, YOUNG and ZEPNICK. Referred to Committee on Financial Institutions and Rural Issues.

1 **AN ACT** *to create* 165.25 (4) (aw) and 224.50 of the statutes; **relating to:** credit
2 cards issued to underage customers, higher education institutions and the
3 marketing of credit cards, financial literacy requirements for higher education
4 students, providing an exemption from emergency rule procedures, granting
5 rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Financial Institutions (DFI) to promulgate rules prohibiting credit card issuers from doing the following: 1) offering a student at an institution of higher education (institution) any tangible item to induce the student to apply for a credit card or participate in an open-end credit plan offered by the issuer; or 2) engaging in any marketing of a credit card involving the physical presence of a representative of the issuer offering anything of value on the campus of an institution. Under the bill, “institution” has the same meaning as under a federal law dealing with similar issues as the bill, which includes public universities, private nonprofit universities, postsecondary proprietary schools, and postsecondary vocational schools.

The bill also requires DFI to promulgate rules prohibiting an institution, or department or other division of an institution, from receiving any payment or compensation for credit card marketing activity on a campus of the institution that is directed at the institution’s students. The bill defines “campus” as the buildings, facilities, and grounds under the control of an institution that are primarily related

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to the institution's operation and related services and activities. Before promulgating any of the foregoing rules, the bill requires DFI to consult with the Board of Regents of the University of Wisconsin (UW) System, the Technical College System Board, the Educational Approval Board, and representatives of private institutions. In addition, the bill requires each institution to provide information about financial literacy to its students on its Internet Web site and, if the institution offers an on-campus orientation program to new students, to provide the information to students during the orientation.

The bill also creates requirements for extending credit to individuals who are less than 21 years old. Under the bill, a credit card may not be issued to, or an open-end credit plan established by or on behalf of, such an individual unless one of the following options is satisfied: 1) the application for the card or plan is cosigned by a parent, legal guardian, spouse, or other individual, who is 21 or older, has the means to repay debts, and indicates that he or she is jointly liable for debts incurred before the applicant turns 21; or 2) the applicant submits financial information indicating an independent means to repay debts. The bill requires DFI to promulgate rules for satisfying the second option. The rules must be consistent with regulations that the Board of Governors of the Federal Reserve System is required to promulgate under federal law. Also, if a cosigner described in the first option is jointly liable for credit card debt incurred by an individual who is not 21 years old, the bill prohibits credit increases unless the cosigner approves of the increase in writing and assumes joint liability for the increase.

Finally, the bill provides that a person who violates the bill or a rule promulgated by DFI under the bill is subject to a civil forfeiture of up to \$5,000.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 165.25 (4) (aw) of the statutes is created to read:

2 165.25 (4) (aw) The department of justice shall furnish all legal services
3 required by the department of financial institutions relating to the enforcement of
4 s. 224.50, together with any other services as are necessarily connected to the legal
5 services.

6 **SECTION 2.** 224.50 of the statutes is created to read:

7 **224.50 Credit card protections for young customers. (1) DEFINITIONS.**

8 In this section:

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1 (a) “Campus” means buildings, facilities, and grounds under the control of an
2 institution of higher education that are primarily related to the operation of the
3 institution and its related services and activities.

4 (b) “Credit card” has the meaning given in s. 421.301 (15).

5 (c) “Credit card issuer” means any person who issues a credit card, or the agent
6 of such a person with respect to such card.

7 (d) “Customer” has the meaning given in s. 421.301 (17).

8 (e) “Institution of higher education” means an institution of higher education,
9 as defined in 15 USC 1650 (a) (3), but not including an institution that is not located
10 in this state.

11 (f) “Open–end credit plan” has the meaning given in s. 421.301 (27) (a).

12 (g) “Student” means an individual who is enrolled on a full–time or part–time
13 basis in an institution of higher education.

14 **(2) EXTENSIONS OF CREDIT TO UNDERAGE CUSTOMERS.** (a) No credit card may be
15 issued to, or open–end credit plan established by or on behalf of, a customer who has
16 not attained the age of 21, unless the customer has submitted a written application
17 to the credit card issuer that meets the requirements of par. (b).

18 (b) An application to open a credit card account by a customer who has not
19 attained the age of 21 as of the date of submission of the application shall require one
20 of the following:

21 1. The signature of a cosigner, including the parent, legal guardian, spouse, or
22 any other individual, who has attained the age of 21 having a means to repay debts
23 incurred by the customer in connection with the account, indicating joint liability for
24 debts incurred by the customer in connection with the account before the customer
25 has attained the age of 21.

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1 2. Submission by the customer of financial information, including through an
2 application, indicating an independent means of repaying any obligation arising
3 from the proposed extension of credit in connection with the account.

4 (c) The department shall promulgate rules providing standards that, if met,
5 would satisfy the requirements of par. (b) 2. The rules shall be consistent with the
6 regulations of the Board of Governors of the Federal Reserve System under 15 USC
7 1637 (c) (8) (C).

8 (d) No increase may be made in the amount of credit authorized to be extended
9 under a credit card account for which a parent, legal guardian, or spouse of the
10 customer, or any other individual has assumed joint liability for debts incurred by
11 the customer in connection with the account before the customer attains the age of
12 21, unless that parent, guardian, or spouse approves in writing, and assumes joint
13 liability for, such increase.

14 **(3) CERTAIN MARKETING AND COMPENSATION PROHIBITED.** (a) The department
15 shall promulgate rules prohibiting a credit card issuer from doing any of the
16 following:

17 1. Offering to a student at an institution of higher education any tangible item
18 to induce the student to apply for or participate in an open-end credit plan offered
19 by the credit card issuer.

20 2. Engaging in any marketing of a credit card that involves the physical
21 presence of a representative of the credit card issuer offering anything of value on
22 the campus of an institution of higher education.

23 (b) The department shall promulgate rules that prohibit an institution of
24 higher education or a department or other division of such an institution from
25 receiving any direct or indirect payment or compensation, monetary or otherwise, for

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1 credit card marketing activity on a campus of the institution that is directed at the
2 institution's students.

3 (c) Before promulgating rules under pars. (a) and (b), the department shall
4 consult with the Board of Regents of the University of Wisconsin System, the
5 technical college system board, the educational approval board, and persons whom
6 the department determines represent the interests of private institutions of higher
7 education.

8 (4) FINANCIAL LITERACY. Each institution of higher education shall provide to
9 students on its Internet Web site information about financial literacy. If an
10 institution of higher education offers an on-campus orientation program to new
11 students, the institution shall also provide the information to students during the
12 course of the orientation.

13 (5) PENALTY. Any person who violates this section or a rule promulgated under
14 this section shall be required to forfeit not more than \$5,000.

15 **SECTION 3. Nonstatutory provisions.**

16 (1) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,
17 the department of financial institutions may promulgate the rules required under
18 section 224.50 (2) (c) of the statutes, as created by this act, for the period before the
19 permanent rules become effective, but not to exceed the period authorized under
20 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),
21 (2) (b), and (3) of the statutes, the department is not required to provide evidence that
22 promulgating a rule under this subsection as an emergency rule is necessary for the
23 preservation of the public peace, health, safety, or welfare and is not required to
24 provide a finding of emergency for the rules promulgated under this subsection.

25 **SECTION 4. Initial applicability.**

