



State of Wisconsin
2009 - 2010 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 745**

March 25, 2010 – Offered by Representatives SMITH and HIXSON.

1 **AN ACT** *to create* 36.11 (56), 38.04 (32), 38.12 (14), 165.25 (4) (aw) and 224.50 of
2 the statutes; **relating to:** prohibiting institutions of higher education from
3 engaging in certain activity regarding student credit cards, requiring such
4 institutions to provide financial literacy information to students, creating
5 requirements for credit cards issued to underage customers, providing an
6 exemption from emergency rule procedures, granting rule-making authority,
7 and providing a penalty.

Analysis by the Legislative Reference Bureau

This substitute amendment requires the Department of Financial Institutions (DFI) to promulgate rules prohibiting credit card issuers, other than federal or state credit unions, 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 marketing of a credit card involving the physical presence of a representative of the issuer on the campus of an institution, except for marketing that takes place solely within a branch office of a financial institution. Under the substitute amendment, “institution of higher education” has the same meaning as

under a federal law dealing with similar issues as the substitute amendment, which includes public universities, private nonprofit universities, postsecondary proprietary schools, and postsecondary vocational schools.

The substitute amendment also requires DFI to promulgate rules prohibiting an institution of higher education, or department or other division of such 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 substitute amendment defines "campus" as the buildings, facilities, and grounds under the control of an institution that are primarily related to the institution's operation and related services and activities. Before promulgating any of the foregoing rules, the substitute amendment 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 the Wisconsin Association of Independent Colleges and Universities. The substitute amendment also prohibits the UW System and technical colleges from selling to or otherwise providing a credit card issuer the names, postal addresses, or electronic mail addresses of students, or engaging in any marketing on behalf of a credit card issuer that is directed at students. The substitute amendment defines "student" as an individual enrolled on a full-time or part-time basis. The substitute amendment also provides that it does not prohibit the UW System or technical colleges from engaging in marketing directed at alumni, nor does it prohibit the maintenance or operation of financial institution branch offices or automated teller machines on UW System or technical college campuses.

In addition, the substitute amendment requires each institution of higher education 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. Also, the substitute amendment requires an institution of higher education to require undergraduate students who are 21 or younger to complete once during the course of their undergraduate studies a financial literacy tutorial established under rules promulgated by DFI. Before promulgating the rules, DFI must consult with same persons with which it must consult for the rules described above.

The substitute amendment also creates requirements for extending credit to individuals who are less than 21 years old. Under the substitute amendment, 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 substitute amendment 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 substitute amendment

prohibits credit increases unless the cosigner approves of the increase in writing and assumes joint liability for the increase.

Finally, except for the prohibitions regarding student information and credit card marketing that apply to the UW System and the technical colleges, the substitute amendment provides that a person who violates the substitute amendment or a rule promulgated by DFI under the substitute amendment is subject to a civil forfeiture of up to \$5,000.

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

- 1 **SECTION 1.** 36.11 (56) of the statutes is created to read:
- 2 36.11 **(56)** STUDENT CREDIT CARDS. (a) In this subsection:
- 3 1. "Credit card issuer" has the meaning given in s. 224.50 (1) (c).
- 4 2. "Student" means an individual who is enrolled on a full-time or part-time
- 5 basis in the system.
- 6 (b) The board may not do any of the following, and shall ensure that each
- 7 institution and college campus does not do any of the following:
- 8 1. Sell or otherwise provide to a credit card issuer the names, postal addresses,
- 9 or electronic mail addresses of students.
- 10 2. Engage in any marketing on behalf of a credit card issuer that is directed at
- 11 students.
- 12 (c) Notwithstanding s. 19.35 (1) (i), and only for the purpose of complying with
- 13 with par. (b) 1., a person acting on behalf of the board may ascertain whether a person
- 14 making a request under s. 19.35 (1) is a credit card issuer.
- 15 (d) This subsection does not prohibit the board or an institution or college
- 16 campus from doing any of the following:

1 1. Allowing a financial institution, as defined in s. 710.05 (1) (c), to maintain
2 or operate a branch office or automated teller machine on the campus of an
3 institution or college campus.

4 2. Engaging in marketing activity directed at alumni.

5 **SECTION 2.** 38.04 (32) of the statutes is created to read:

6 38.04 (32) STUDENT CREDIT CARDS. (a) In this subsection:

7 1. “Credit card issuer” has the meaning given in s. 224.50 (1) (c).

8 2. “Student” means an individual who is enrolled on a full-time or part-time
9 basis in a district.

10 (b) The board may not do any of the following:

11 1. Sell or otherwise provide to a credit card issuer the names, postal addresses,
12 or electronic mail addresses of students.

13 2. Engage in any marketing on behalf of a credit card issuer that is directed at
14 students.

15 (c) Notwithstanding s. 19.35 (1) (i), and only for the purpose of complying with
16 with par. (b) 1., a person acting on behalf of the board may ascertain whether a person
17 making a request under s. 19.35 (1) is a credit card issuer.

18 (d) This subsection does not prohibit the board from doing any of the following:

19 1. Allowing a financial institution, as defined in s. 710.05 (1) (c), to maintain
20 or operate a branch office or automated teller machine on a college campus.

21 2. Engaging in marketing activity directed at alumni.

22 **SECTION 3.** 38.12 (14) of the statutes is created to read:

23 38.12 (14) STUDENT CREDIT CARDS. (a) In this subsection:

24 1. “Credit card issuer” has the meaning given in s. 224.50 (1) (c).

25 2. “Student” has the meaning given in s. 38.04 (32) (a) 2.

1 (b) Each district board may not do any of the following:

2 1. Sell or otherwise provide to a credit card issuer the names, postal addresses,
3 or electronic mail addresses of students.

4 2. Engage in any marketing on behalf of a credit card issuer that is directed at
5 students.

6 (c) Notwithstanding s. 19.35 (1) (i), and only for the purpose of complying with
7 with par. (b) 1., a person acting on behalf of a district board may ascertain whether
8 a person making a request under s. 19.35 (1) is a credit card issuer.

9 (d) This subsection does not prohibit a district board from doing any of the
10 following:

11 1. Allowing a financial institution, as defined in s. 710.05 (1) (c), to maintain
12 or operate a branch office or automated teller machine on a college campus.

13 2. Engaging in marketing activity directed at alumni.

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

15 165.25 (4) (aw) The department of justice shall furnish all legal services
16 required by the department of financial institutions relating to the enforcement of
17 s. 224.50, together with any other services as are necessarily connected to the legal
18 services.

19 **SECTION 5.** 224.50 of the statutes is created to read:

20 **224.50 Credit card protections for young customers. (1) DEFINITIONS.**

21 In this section:

22 (a) "Campus" means buildings, facilities, and grounds under the control of an
23 institution of higher education that are primarily related to the operation of the
24 institution and its related services and activities.

25 (b) "Credit card" has the meaning given in s. 421.301 (15).

1 (c) “Credit card issuer” means any person, other than a federal or state
2 chartered credit union, who issues a credit card, or the agent of such a person with
3 respect to such card.

4 (dm) “Customer” has the meaning given in s. 421.301 (17).

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

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

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

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

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

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

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

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

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

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

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

17 2. Engaging in any marketing of a credit card directed at the students of an
18 institution of higher education that involves the physical presence of an individual
19 representing the credit card issuer on the campus of the institution. This subdivision
20 does not apply to any marketing that occurs solely within the branch office of a
21 financial institution, as defined in s. 710.05 (1) (c), that is located on the campus of
22 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

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 the Wisconsin
6 Association of Independent Colleges and Universities.

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

12 (b) 1. Each institution of higher education shall require each undergraduate
13 student who is 21 years or younger to complete once during the course of the student's
14 undergraduate studies a financial literacy tutorial established under subd. 2.

15 2. The department shall promulgate rules establishing a financial literacy
16 tutorial. Before promulgating the rules, the department shall consult with persons
17 whom the department determines have an interest in the rules, including the Board
18 of Regents of the University of Wisconsin System, the technical college system board,
19 the educational approval board, the Wisconsin Association of Independent Colleges
20 and Universities, and persons representing the interests of credit card issuers.

21 3. The rules promulgated under subd. 2. shall provide that the rules first apply
22 to undergraduate students enrolled at an institution of higher education in the
23 semester, quarter, or term beginning after the effective date of the rules.

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

1 **SECTION 6. Nonstatutory provisions.**

2 (1) **EFFECT ON CERTAIN CONTRACTS.** If any of the following is subject to a contract
3 that is in effect on the effective date of this subsection, and that contains provisions
4 that are inconsistent with sections 36.11 (56) (b), 38.04 (32), or 38.12 (14) (b) of the
5 statutes, as created by this act, then, notwithstanding sections 36.11 (56) (b), 38.04
6 (32), or 38.12 (14) (b) of the statutes, as created by this act, the following may perform
7 its obligations, and exercise its rights, under that contract until the contract expires,
8 is extended, modified, or renewed, whichever occurs first:

9 (a) The Board of Regents of the University of Wisconsin System.

10 (b) The technical college system board.

11 (c) A district board, as defined in section 38.01 (6) of the statutes.

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

21 **SECTION 7. Initial applicability.**

22 (1) The treatment of section 224.50 (2) of the statutes first applies to credit
23 cards issued and open-end credit plans established on the effective date of this
24 subsection.

25 **SECTION 8. Effective date.**

