

ASSEMBLY BILL NO. 220—ASSEMBLYMAN DALY

MARCH 8, 2013

Referred to Committee on Commerce and Labor

SUMMARY—Prohibits certain fees relating to credit card transactions. (BDR 52-1024)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to credit cards; prohibiting certain payees from applying a surcharge to the purchase by credit card of any goods or services; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 This bill prohibits a payee from applying a surcharge to any purchase made by
2 credit card. This bill also authorizes a payee to increase the cost of a good or
3 service if the issuer of the credit card charges the payee a fee to process the
4 transaction so long as the increase in cost is charged uniformly to all buyers who
5 purchase with any form of payment the same goods or services.

6 Existing law authorizes certain governmental entities to charge a convenience
7 fee to a person who uses a credit card to pay. (NRS 1.113, 353.1465, 354.770,
8 706.322, 706.88355) **Sections 2-6** of this bill remove that authority.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 597 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. The payee in any sales, service, lease or other transaction:*
4 *(a) Shall not apply a surcharge to the purchase by credit card*
5 *of any goods or services. For the purpose of this paragraph, the*
6 *term “surcharge” includes a convenience fee.*

7 *(b) Except as otherwise provided in this paragraph, may, if the*
8 *issuer charges the payee a fee for each use of the credit card,*
9 *increase the cost of the goods or services purchased to offset the*



1 *cost of that fee so long as the increase in cost is applied uniformly*
2 *to every person who purchases the same goods or services*
3 *regardless of the person's form of payment. The provisions of this*
4 *paragraph do not apply if the cost of the goods or services*
5 *purchased is established by statute, regulation or ordinance.*

6 2. *As used in this section:*

7 (a) *"Cardholder" means the person or organization named on*
8 *the face of a credit card to whom or for whose benefit the credit*
9 *card is issued by an issuer.*

10 (b) *"Convenience fee" means a fee paid by a cardholder to any*
11 *person or entity for the convenience of using a credit card to make*
12 *a payment.*

13 (c) *"Credit card" has the meaning ascribed to it in*
14 *NRS 597.945.*

15 (d) *"Issuer" means a business organization, financial*
16 *institution or authorized agent of a business organization or*
17 *financial institution that issues a credit card or enables or*
18 *facilitates the acceptance of a credit card.*

19 (e) *"Payee" means any person, firm, corporation, association*
20 *or any public agency, including, without limitation, the State, a*
21 *county or a city, other than a card issuer, who:*

22 (1) *Furnishes money, goods, services or anything else of*
23 *value upon presentation of a credit card by a cardholder; and*

24 (2) *Is owed a fine, fee or any other payment by a payor.*

25 **Sec. 2.** NRS 1.113 is hereby amended to read as follows:

26 1.113 1. A court in this State may enter into contracts with
27 issuers of credit cards or debit cards to provide for the acceptance of
28 credit cards or debit cards by the court for the payment of money
29 owed to the court for a fee, fine, administrative assessment,
30 restitution or any other charge owed to the court.

31 2. If the issuer charges the court a fee for each use of a ~~credit~~
32 ~~card or~~ debit card, the court may require the cardholder to pay a
33 convenience fee. The total convenience fees charged by the court in
34 a fiscal year must not exceed the total amount of fees charged to the
35 court by the issuer in that fiscal year.

36 3. As used in this section:

37 (a) "Cardholder" means the person or organization named on the
38 face of a credit card or debit card to whom or for whose benefit the
39 credit card or debit card is issued by an issuer.

40 (b) "Convenience fee" means a fee paid by a cardholder to a
41 court for the convenience of using a ~~credit card or~~ debit card to
42 make a payment to the court.

43 (c) "Credit card" means any instrument or device, whether
44 known as a credit card or credit plate, or by any other name, issued
45 with or without a fee by an issuer for the use of the cardholder in



1 obtaining money, property, goods, services or anything else of value
2 on credit.

3 (d) "Debit card" means any instrument or device, whether
4 known as a debit card or by any other name, issued with or without
5 a fee by an issuer for the use of the cardholder in depositing,
6 obtaining or transferring funds.

7 (e) "Issuer" means a business organization, financial institution
8 or authorized agent of a business organization or financial institution
9 that issues a credit card or debit card.

10 **Sec. 3.** NRS 353.1465 is hereby amended to read as follows:

11 353.1465 1. Upon approval of the State Board of Finance, a
12 state agency may enter into contracts with issuers of credit cards or
13 debit cards or operators of systems that provide for the electronic
14 transfer of money to provide for the acceptance of credit cards, debit
15 cards or electronic transfers of money by the agency:

16 (a) For the payment of money owed to the agency for taxes,
17 interest, penalties or any other obligation; or

18 (b) In payment for goods or services.

19 2. Before a state agency may enter into a contract pursuant to
20 subsection 1, the agency must submit the proposed contract to the
21 State Treasurer for his or her review and transmittal to the State
22 Board of Finance. The agency shall coordinate the administration of
23 the contract with the State Treasurer to ensure that the State
24 Treasurer is able to track and reconcile payment information
25 pursuant to the contract.

26 3. Except as otherwise provided in subsection 4, if the issuer or
27 operator charges the state agency a fee for each use of a ~~credit card~~
28 ~~or~~ debit card or for each electronic transfer of money, the state
29 agency may require the cardholder or the person requesting the
30 electronic transfer of money to pay a convenience fee when
31 appropriate and authorized. The total convenience fees charged by
32 the state agency in a fiscal year must not exceed the total amount of
33 fees charged to the state agency by the issuer or operator in that
34 fiscal year.

35 4. A state agency that is required to pay a fee charged by the
36 issuer or operator for the use of a credit card or debit card or for an
37 electronic transfer of money may, pursuant to NRS 353.148, file a
38 claim with the Director of the Department of Administration for
39 reimbursement of the fees paid to the issuer or operator during the
40 immediately preceding quarter.

41 5. The Director of the Department of Administration shall
42 adopt regulations providing for the submission of payments to state
43 agencies pursuant to contracts authorized by this section. The
44 regulations must not conflict with a regulation adopted pursuant to
45 NRS 360.092 or 360A.020.



1 6. As used in this section:

2 (a) "Cardholder" means the person or organization named on the
3 face of a credit card or debit card to whom or for whose benefit the
4 credit card or debit card is issued by an issuer.

5 (b) "Convenience fee" means a fee paid by a cardholder or
6 person requesting the electronic transfer of money to a state agency
7 for the convenience of using the ~~credit card or~~ debit card or the
8 electronic transfer of money to make such payment.

9 (c) "Credit card" means any instrument or device, whether
10 known as a credit card or credit plate or by any other name, issued
11 with or without a fee by an issuer for the use of the cardholder in
12 obtaining money, property, goods, services or anything else of value
13 on credit.

14 (d) "Debit card" means any instrument or device, whether
15 known as a debit card or by any other name, issued with or without
16 a fee by an issuer for the use of the cardholder in depositing,
17 obtaining or transferring funds.

18 (e) "Electronic transfer of money" has the meaning ascribed to it
19 in NRS 463.01473.

20 (f) "Issuer" means a business organization, financial institution
21 or authorized agent of a business organization or financial institution
22 that issues a credit card or debit card.

23 **Sec. 4.** NRS 354.770 is hereby amended to read as follows:

24 354.770 1. A local government may enter into contracts with
25 issuers of credit cards or debit cards, or operators of systems that
26 provide for the electronic transfer of money to provide for the
27 acceptance of credit cards, debit cards or electronic transfers of
28 money by the local government:

29 (a) For the payment of money owed to the local government for
30 taxes, interest, penalties or any other obligation; or

31 (b) In payment for goods or services.

32 2. If the issuer or operator charges the local government a fee
33 for each use of a ~~credit card or~~ debit card or for each electronic
34 transfer of money, the local government may require the cardholder
35 or the person requesting the electronic transfer of money to pay a
36 convenience fee when appropriate and authorized. The total
37 convenience fees charged by the local government in a fiscal year
38 must not exceed the total amount of fees charged to the local
39 government by the issuer or operator in that fiscal year.

40 3. As used in this section:

41 (a) "Cardholder" means the person or organization named on the
42 face of a credit card or debit card to whom or for whose benefit the
43 credit card or debit card is issued by an issuer.

44 (b) "Convenience fee" means a fee paid by a cardholder or
45 person requesting the electronic transfer of money to a local



1 government for the convenience of using the ~~credit card or~~ debit
2 card or the electronic transfer of money to make such payment.

3 (c) "Credit card" means any instrument or device, whether
4 known as a credit card or credit plate, or by any other name, issued
5 with or without a fee by an issuer for the use of the cardholder in
6 obtaining money, property, goods, services or anything else of value
7 on credit.

8 (d) "Debit card" means any instrument or device, whether
9 known as a debit card or by any other name, issued with or without
10 a fee by an issuer for the use of the cardholder in depositing,
11 obtaining or transferring funds.

12 (e) "Electronic transfer of money" has the meaning ascribed to it
13 in NRS 463.01473.

14 (f) "Issuer" means a business organization, financial institution
15 or authorized agent of a business organization or financial institution
16 that issues a credit card or debit card.

17 (g) "Local government" has the meaning ascribed to it in NRS
18 354.474, except that the term does not include a court that has
19 entered into a contract pursuant to NRS 1.113.

20 **Sec. 5.** NRS 706.322 is hereby amended to read as follows:

21 706.322 1. A taxicab motor carrier or an operator of a
22 limousine may enter into a contract with an issuer of credit cards
23 and debit cards to provide for the acceptance of credit cards or debit
24 cards by the taxicab motor carrier or the operator of a limousine for
25 the payment of rates, fares and charges owed to the taxicab motor
26 carrier or the operator of a limousine.

27 2. The Authority may prescribe by regulation or order the
28 maximum fee that a taxicab motor carrier or an operator of a
29 limousine may charge a customer for the convenience of using a
30 ~~credit card or~~ debit card to make payment to the taxicab motor
31 carrier or the operator of a limousine. In prescribing such fees, the
32 Authority may consider the expenses incurred by the taxicab motor
33 carrier or the operator of a limousine in accepting payment by a
34 ~~credit card or~~ debit card, including, without limitation:

35 (a) Costs of required equipment and its installation;

36 (b) Administrative costs of processing ~~credit card or~~ debit card
37 transactions; and

38 (c) Fees paid to issuers of ~~credit cards or~~ debit cards.

39 3. An issuer shall not, by contract or otherwise:

40 (a) Prohibit a taxicab motor carrier or an operator of a limousine
41 from charging and collecting a fee authorized pursuant to subsection
42 2; or

43 (b) Require a taxicab motor carrier or an operator of a limousine
44 to waive the right to charge and collect a fee authorized pursuant to
45 subsection 2.



1 4. As used in this section, "issuer" means a business
2 organization, financial institution or a duly authorized agency of a
3 business organization or financial institution which:

4 (a) Issues a credit card or debit card; or

5 (b) Enters into a contract with a taxicab motor carrier, an
6 operator of a limousine or other person to enable or facilitate the
7 acceptance of a credit card or debit card.

8 **Sec. 6.** NRS 706.88355 is hereby amended to read as follows:

9 706.88355 1. A certificate holder may enter into a contract
10 with an issuer of credit cards and debit cards to provide for the
11 acceptance of credit cards or debit cards by the certificate holder for
12 the payment of rates, fares and charges owed to the certificate
13 holder.

14 2. The Taxicab Authority may prescribe by regulation or order
15 the maximum fee that a certificate holder may charge a customer for
16 the convenience of using a ~~credit card or~~ debit card to make
17 payment to the certificate holder. In prescribing such fees, the
18 Taxicab Authority may consider the expenses incurred by the
19 certificate holder in accepting payment by a ~~credit card or~~ debit
20 card, including, without limitation:

21 (a) Costs of required equipment and its installation;

22 (b) Administrative costs of processing ~~credit card or~~ debit card
23 transactions; and

24 (c) Fees paid to issuers of ~~credit cards or~~ debit cards.

25 3. An issuer shall not, by contract or otherwise:

26 (a) Prohibit a certificate holder from charging and collecting a
27 fee authorized pursuant to subsection 2; or

28 (b) Require a certificate holder to waive the right to charge and
29 collect a fee authorized pursuant to subsection 2.

30 4. As used in this section, "issuer" means a business
31 organization, financial institution or a duly authorized agency of a
32 business organization or financial institution which:

33 (a) Issues a credit card or debit card; or

34 (b) Enters into a contract with a certificate holder or other
35 person to enable or facilitate the acceptance of a credit card or debit
36 card.

