

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1251

S.P. 372

In Senate, March 22, 2011

An Act To Prevent Credit Card Company Unfair Trade Practices

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator ROSEN of Hancock.

Cosponsored by Senator: RECTOR of Knox, Representative: MALABY of Hancock.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 10 MRSA c. 205-B** is enacted to read:

3 **CHAPTER 205-B**

4 **CREDIT CARD COMPANY UNFAIR TRADE PRACTICES**

5 **§1210-C. Prevention of credit card company unfair trade practices**

6 **1. Definitions.** As used in this chapter, unless the context otherwise indicates, the
7 following terms have the following meanings.

8 A. "Electronic payment system" means an entity, other than a national bank, that
9 directly or through licensed members, processors or agents provides the proprietary
10 services, infrastructure and software that route information and data to facilitate
11 transaction authorization, clearance and settlement and that merchants access in order
12 to accept a brand of general-purpose credit card, charge card, debit card or
13 stored-value card as payment for goods and services.

14 B. "Merchant" means a person or entity doing business in this State that offers goods
15 or services for sale in this State.

16 **2. Electronic payment systems.** With respect to transactions involving merchants,
17 an electronic payment system may not directly or through any agent, processor or
18 member of the electronic payment system impose any requirement, condition, penalty or
19 fine in a contract with a merchant that:

20 A. Restricts the display of pricing for goods or services for sale by a merchant;

21 B. Inhibits the ability of a merchant to offer its customers a discount or other in-kind
22 incentives for using a particular form of payment;

23 C. Inhibits the ability of a merchant to offer its customers a discount or other in-kind
24 incentives for using a debit card or credit card of another electronic payment system;

25 D. Prevents a merchant from setting a minimum or maximum dollar value for its
26 acceptance of a credit card;

27 E. Inhibits the ability of a merchant to not accept the products of an electronic
28 payment system at one or more of its locations;

29 F. Prevents a merchant from not accepting a certain product of an electronic payment
30 system based on the fees associated with that product while still accepting other
31 products of that electronic payment system; or

32 G. Prevents a merchant from choosing how to route a transaction among any of the
33 electronic payment systems authorized to process transactions on the card in
34 question.

35 **3. Rates.** An electronic payment system may not require, suggest or set maximum
36 rates for the fees to be charged by any issuer of its payment cards or any agent, processor
37 or member of the electronic payment system for transactions occurring within this State

1 unless the issuer, agent, processor or member is the electronic payment system itself and
2 not a separate legal entity.

3 **4. Penalties.** The following penalties apply to a violation of this chapter.

4 A. An electronic payment system found to have violated a provision of this chapter
5 shall reimburse an affected merchant for any penalties or fines related to the
6 prohibitions described in this chapter that were collected from the affected merchant,
7 whether directly or through an agent, processor or member of the electronic payment
8 system, during the period of time the electronic payment system was in violation and
9 is liable for a civil penalty of \$10,000 per penalty or fine levied for a violation of this
10 chapter.

11 B. A merchant whose rights under this chapter have been violated may maintain a
12 civil action for damages or equitable relief.

13 C. The Attorney General may maintain a civil action for damages or equitable relief
14 pursuant to this section and pursuant to Title 5, chapter 10 for any violation of this
15 chapter.

16 These penalties do not apply to entities acting exclusively as agents, processors or
17 members of electronic payment systems but are not themselves electronic payment
18 systems.

19 **SUMMARY**

20 This bill prohibits electronic payment systems from imposing certain restrictions on
21 merchants relating to the acceptance of credit cards, charge cards, debit cards or other
22 stored-value cards as payment for goods and services.