

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2178

By: Ortega

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9 COMMITTEE SUBSTITUTE

10 An Act relating to credit card transactions; amending
11 14A O.S. 2011, Sections 2-211, as last amended by
12 Section 2, Chapter 319, O.S.L. 2015, and 2-417, as
13 last amended by Section 3, Chapter 319, O.S.L. 2015
14 (14A O.S. Supp. 2016, Sections 2-211 and 2-417),
15 which relate to surcharge for the use of credit or
16 debit cards; allowing private schools to charge a
17 service fee; and providing an effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 14A O.S. 2011, Section 2-211, as
20 last amended by Section 2, Chapter 319, O.S.L. 2015 (14A O.S. Supp.
21 2016, Section 2-211), is amended to read as follows:

22 Section 2-211. A. With respect to all sales transactions, a
23 discount which a seller offers, allows or otherwise makes available
24 for the purpose of inducing payment by cash, check or similar means
 rather than by use of an open-end credit card account shall not

1 constitute a credit service charge as determined under Section 2-109
2 of this title if the discount is offered to all prospective buyers
3 clearly and conspicuously in accordance with regulations of the
4 Administrator of Consumer Affairs. No seller in any sales
5 transaction may impose a surcharge on a cardholder who elects an
6 open-end credit card or debit card account instead of paying by
7 cash, check or similar means. There is no limit on the discount
8 which may be offered by the seller. A seller who provides a
9 discount otherwise than in accordance with the regulations of the
10 Administrator must make the disclosures required by those
11 regulations.

12 B. A seller who is registered with the United States Treasury
13 Department as a money transmitter pursuant to 31 CFR, Section
14 103.41, and who provides an electronic funds transmission service,
15 including service by telephone and the Internet, may charge a
16 different price for a funds transmission service based on the mode
17 of transmission used in the transaction without violating this
18 section so long as the price charged for a service paid for with an
19 open-end credit card or debit card account is not greater than the
20 price charged for such service if paid for with currency or other
21 similar means accepted within the same mode of transmission.

22 C. Any seller subject to the provisions of subsection B of this
23 section shall either conduct business at a location in this state or
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1 comply with the provisions of Section 1022 of Title 18 of the
2 Oklahoma Statutes.

3 D. As used in this section, "debit card" means any instrument
4 or device, whether known as a debit card or by any other name,
5 issued with or without fee by an issuer for the use of the
6 cardholder in depositing, obtaining or transferring funds from a
7 consumer banking electronic facility.

8 E. For purposes of this section, a private educational
9 institution as defined in paragraph (e) of Section 3102 of Title 70
10 of the Oklahoma Statutes, a private school defined as a nonpublic
11 entity conducting an educational program for at least one grade
12 between prekindergarten through twelve, a municipality as defined in
13 paragraph 5 of Section 1-102 of Title 11 of the Oklahoma Statutes or
14 a public trust with a municipality as its beneficiary may charge a
15 ~~convenience~~ service fee. The ~~convenience~~ service fee shall be
16 limited to bank processing fees and financial transaction fees, the
17 cost of providing for secure transaction, portal fees, and fees
18 necessary to compensate for increased bandwidth incurred as a result
19 of providing for an online transaction.

20 SECTION 2. AMENDATORY 14A O.S. 2011, Section 2-417, as
21 last amended by Section 3, Chapter 319, O.S.L. 2015 (14A O.S. Supp.
22 2016, Section 2-417), is amended to read as follows:
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1 Section 2-417. A. No seller in any sales transaction may
2 impose a surcharge on a cardholder who elects to use a credit card
3 or debit card in lieu of payment by cash, check or similar means.

4 B. As used in this section, "debit card" means any instrument
5 or device, whether known as a debit card or by any other name,
6 issued with or without fee by an issuer for the use of the
7 cardholder in depositing, obtaining or transferring funds from a
8 consumer banking electronic facility.

9 C. For purposes of this section, a private educational
10 institution as defined in paragraph (e) of Section 3102 of Title 70
11 of the Oklahoma Statutes, a private school defined as a nonpublic
12 entity conducting an educational program for at least one grade
13 between prekindergarten through twelve, a municipality as defined in
14 paragraph 5 of Section 1-102 of Title 11 of the Oklahoma Statutes or
15 a public trust with a municipality as its beneficiary may charge a
16 ~~convenience~~ service fee. The ~~convenience~~ service fee shall be
17 limited to bank processing fees and financial transaction fees, the
18 cost of providing for secure transaction, portal fees, and fees
19 necessary to compensate for increased bandwidth incurred as a result
20 of providing for an online transaction.

21 SECTION 3. This act shall become effective November 1, 2017.

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23 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM,
24 dated 02/15/2017 - DO PASS, As Amended.