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SENATE BILL 5094

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State of Washington

61st Legislature

2009 Regular Session

By Senator Jacobsen

Read first time 01/13/09. Referred to Committee on Financial Institutions, Housing & Insurance.

1 AN ACT Relating to interchange and associated fees; amending RCW  
2 63.14.010; and adding a new section to chapter 63.14 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 63.14.010 and 2003 c 368 s 2 are each amended to read  
5 as follows:

6 In this chapter, unless the context otherwise requires:

7 (1) "Goods" means all chattels personal when purchased primarily  
8 for personal, family, or household use and not for commercial or  
9 business use, but not including money or, except as provided in the  
10 next sentence, things in action. The term includes but is not limited  
11 to merchandise certificates or coupons, issued by a retail seller, to  
12 be used in their face amount in lieu of cash in exchange for goods or  
13 services sold by such a seller and goods which, at the time of sale or  
14 subsequently, are to be so affixed to real property as to become a part  
15 thereof, whether or not severable therefrom;

16 (2) "Lender credit card" means a card or device under a lender  
17 credit card agreement pursuant to which the issuer gives to a  
18 cardholder residing in this state the privilege of obtaining credit  
19 from the issuer or other persons in purchasing or leasing property or

1 services, obtaining loans, or otherwise, and the issuer of which is  
2 not: (a) Principally engaged in the business of selling goods; or (b)  
3 a financial institution;

4 (3) "Lender credit card agreement" means an agreement entered into  
5 or performed in this state prescribing the terms of retail installment  
6 transactions pursuant to which the issuer may, with the buyer's  
7 consent, purchase or acquire one or more retail sellers' indebtedness  
8 of the buyer under a sales slip or memorandum evidencing the purchase,  
9 lease, loan, or otherwise to be paid in accordance with the agreement.  
10 The issuer of a lender credit card agreement shall not be principally  
11 engaged in the business of selling goods or be a financial institution;

12 (4) "Financial institution" means any bank or trust company, mutual  
13 savings bank, credit union, or savings and loan association organized  
14 pursuant to the laws of any one of the United States of America or the  
15 United States of America, or the laws of a foreign country if also  
16 qualified to conduct business in any one of the United States of  
17 America or pursuant to the laws of the United States of America;

18 (5) "Services" means work, labor, or services of any kind when  
19 purchased primarily for personal, family, or household use and not for  
20 commercial or business use whether or not furnished in connection with  
21 the delivery, installation, servicing, repair, or improvement of goods  
22 and includes repairs, alterations, or improvements upon or in  
23 connection with real property, but does not include services for which  
24 the price charged is required by law to be determined or approved by or  
25 to be filed, subject to approval or disapproval, with the United States  
26 or any state, or any department, division, agency, officer, or official  
27 of either as in the case of transportation services;

28 (6) "Retail buyer" or "buyer" means a person who buys or agrees to  
29 buy goods or obtain services or agrees to have services rendered or  
30 furnished, from a retail seller;

31 (7) "Retail seller" or "seller" means a person engaged in the  
32 business of selling goods or services to retail buyers;

33 (8) "Retail installment transaction" means any transaction in which  
34 a retail buyer purchases goods or services from a retail seller  
35 pursuant to a retail installment contract, a retail charge agreement,  
36 or a lender credit card agreement, as defined in this section, which  
37 provides for a service charge, as defined in this section, and under  
38 which the buyer agrees to pay the unpaid principal balance in one or

1 more installments or which provides for no service charge and under  
2 which the buyer agrees to pay the unpaid balance in more than four  
3 installments;

4 (9) "Retail installment contract" or "contract" means a contract,  
5 other than a retail charge agreement, a lender credit card agreement,  
6 or an instrument reflecting a sale made pursuant thereto, entered into  
7 or performed in this state for a retail installment transaction. The  
8 term "retail installment contract" may include a chattel mortgage, a  
9 conditional sale contract, and a contract in the form of a bailment or  
10 a lease if the bailee or lessee contracts to pay as compensation for  
11 their use a sum substantially equivalent to or in excess of the value  
12 of the goods sold and if it is agreed that the bailee or lessee is  
13 bound to become, or for no other or a merely nominal consideration, has  
14 the option of becoming the owner of the goods upon full compliance with  
15 the provisions of the bailment or lease. The term "retail installment  
16 contract" does not include: (a) A "consumer lease," heretofore or  
17 hereafter entered into, as defined in RCW 63.10.020; (b) a lease which  
18 would constitute such "consumer lease" but for the fact that: (i) It  
19 was entered into before April 29, 1983; (ii) the lessee was not a  
20 natural person; (iii) the lease was not primarily for personal, family,  
21 or household purposes; or (iv) the total contractual obligations  
22 exceeded twenty-five thousand dollars; or (c) a lease-purchase  
23 agreement under chapter 63.19 RCW;

24 (10) "Retail charge agreement," "revolving charge agreement," or  
25 "charge agreement" means an agreement between a retail buyer and a  
26 retail seller that is entered into or performed in this state and that  
27 prescribes the terms of retail installment transactions with one or  
28 more sellers which may be made thereunder from time to time and under  
29 the terms of which a service charge, as defined in this section, is to  
30 be computed in relation to the buyer's unpaid balance from time to  
31 time;

32 (11) "Service charge" however denominated or expressed, means the  
33 amount which is paid or payable for the privilege of purchasing goods  
34 or services to be paid for by the buyer in installments over a period  
35 of time. It does not include the amount, if any, charged for insurance  
36 premiums, delinquency charges, attorneys' fees, court costs, any  
37 vehicle dealer administrative fee under RCW 46.12.042, any vehicle

1 dealer documentary service fee under RCW 46.70.180(2), or official  
2 fees;

3 (12) "Sale price" means the price for which the seller would have  
4 sold or furnished to the buyer, and the buyer would have bought or  
5 obtained from the seller, the goods or services which are the subject  
6 matter of a retail installment transaction. The sale price may include  
7 any taxes, registration and license fees, any vehicle dealer  
8 administrative fee, any vehicle dealer documentary service fee, and  
9 charges for transferring vehicle titles, delivery, installation,  
10 servicing, repairs, alterations, or improvements;

11 (13) "Official fees" means the amount of the fees prescribed by law  
12 and payable to the state, county, or other governmental agency for  
13 filing, recording, or otherwise perfecting, and releasing or  
14 satisfying, a retained title, lien, or other security interest created  
15 by a retail installment transaction;

16 (14) "Time balance" means the principal balance plus the service  
17 charge;

18 (15) "Principal balance" means the sale price of the goods or  
19 services which are the subject matter of a retail installment contract  
20 less the amount of the buyer's down payment in money or goods or both,  
21 plus the amounts, if any, included therein, if a separate identified  
22 charge is made therefor and stated in the contract, for insurance, any  
23 vehicle dealer administrative fee, any vehicle dealer documentary  
24 service fee, and official fees; and the amount actually paid or to be  
25 paid by the retail seller pursuant to an agreement with the buyer to  
26 discharge a security interest or lien on like-kind goods traded in or  
27 lease interest in the circumstance of a lease for like goods being  
28 terminated in conjunction with the sale pursuant to a retail  
29 installment contract;

30 (16) "Person" means an individual, partnership, joint venture,  
31 corporation, association, or any other group, however organized;

32 (17) "Rate" means the percentage which, when multiplied times the  
33 outstanding balance for each month or other installment period, yields  
34 the amount of the service charge for such month or period;

35 (18) "Interchange fee" means the fee a merchant's financial  
36 institution pays to a cardholder's financial institution when a  
37 cardholder uses a credit card or debit card as payment during a retail  
38 transaction.

1        NEW SECTION.   **Sec. 2.**   A new section is added to chapter 63.14 RCW  
2   to read as follows:

3        Financial institutions may not charge interchange fees that are  
4   more than one and one-half percent of the total cost of the retail  
5   transaction.

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