

HOUSE BILL NO. HB0064

Credit Card Fairness Act.

Sponsored by: Representative(s) Zwonitzer, Dv.

A BILL

for

1 AN ACT relating to consumer protection; establishing the  
2 Credit Card Fairness Act as specified; specifying the  
3 requirements for contracts between financial institutions  
4 and merchants; providing definitions; specifying  
5 applicability; providing penalties; and providing for an  
6 effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 40-25-101 through 40-25-107 are  
11 created to read:

12

CHAPTER 25

13

CREDIT CARD FAIRNESS ACT

14

15

16 **40-25-101. Short title.**

17

1 This act shall be known and may be cited as the "Credit  
2 Card Fairness Act."

3

4 **40-25-102. Definitions.**

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6 (a) As used in this act:

7

8 (i) "Acquiring bank" means a financial  
9 institution licensed to do business in this state providing  
10 merchant accounts;

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12 (ii) "Chargeback" means a credit card or debit  
13 card transaction that is either billed back to a merchant  
14 or deducted from a merchant's account;

15

16 (iii) "Credit card" means:

17

18 (A) Any instrument or device, whether known  
19 as a credit card, charge card, credit plate, courtesy card  
20 or identification card or by any other name, issued with or  
21 without a fee by an issuer for the use of the cardholder in  
22 obtaining money, goods, services, or anything else of  
23 value, either on credit or in possession or in  
24 consideration of an undertaking or guaranty by the issuer

1 of the payment of a check drawn by the cardholder on a  
2 promise to pay in part or in full at a future time, whether  
3 or not all or any part of the indebtedness represented by  
4 this promise to make deferred payment is secured or  
5 unsecured;

6

7 (B) Any stored value card, smart card, or  
8 other instrument or device that enables a person to obtain  
9 goods, services or anything else of value through the use  
10 of value stored on the instrument or device; and

11

12 (C) The number assigned to an instrument or  
13 device described in subparagraph (A) or (B) of this  
14 paragraph even if the physical instrument or device is not  
15 used or presented.

16

17 (iv) "Debit card" means:

18

19 (A) Any instrument or device whether known  
20 as a debit card, ATM card, electronic benefit transfer  
21 card, or any other access instrument or device, other than  
22 a check, that is signed by the holder or other authorized  
23 signatory on the deposit account that draws monies from a

1 deposit account in order to obtain money, goods, services  
2 or anything else of value; and

3

4 (B) The number assigned to an instrument or  
5 device described in subparagraph (A) of this paragraph even  
6 if the physical instrument or device is not used or  
7 presented.

8

9 (v) "Financial institution" means any bank,  
10 savings association, savings bank, credit union or  
11 industrial loan company;

12

13 (vi) "Interchange fee" means the fee that an  
14 acquiring bank pays to an issuing bank when a cardholder  
15 uses a credit card or debit card as payment during a retail  
16 transaction;

17

18 (vii) "Issuing bank" means a financial  
19 institution which issues credit cards to cardholders;

20

21 (viii) "Merchant account" means a bank account  
22 that allows a merchant to accept credit card or debit card  
23 payments;

24

1           (ix) "Merchant" means a person or entity  
2 licensed to do business in this state which offers goods or  
3 services for sale in this state;

4

5           (x) "This act" means W.S. 40-25-101 through  
6 40-25-107.

7

8           **40-25-103. Requirements to be included in contract;**  
9 **disclosure; penalty.**

10

11           (a) No credit card company, financial institution or  
12 card processor shall impose any requirement, condition,  
13 penalty or fine on a merchant relating to that merchant's  
14 acceptance of credit or debit cards other than that  
15 specifically set in the actual terms of a contract with the  
16 merchant or in a copy of the rules provided to the merchant  
17 and incorporated by reference in the contract.

18

19           (b) No credit card company, financial institution or  
20 card processor shall require a merchant to agree not to  
21 disclose any of the rules or rates the merchant is subject  
22 to.

23

1           (c) Any credit card company, financial institution or  
2 card processor found to have violated this section shall  
3 reimburse all affected merchants for all chargebacks, fees  
4 and fines collected from those merchants during the period  
5 of time in which the credit card company, financial  
6 institution or card processor was in violation and shall be  
7 liable for a civil penalty of ten thousand dollars  
8 (\$10,000.00) per chargeback, fee or fine levied.

9

10           (d) Any merchant whose rights pursuant to this  
11 section have been violated may maintain a civil action for  
12 damages or equitable relief as provided for in this  
13 section.

14

15           **40-25-104. Provision of rules by financial**  
16 **institution; credit card contract requirements; penalty.**

17

18           (a) If a contract authorizing a merchant to accept a  
19 credit card or debit card specifies that the merchant is  
20 bound by the rules of a financial institution, the  
21 contracting financial institution shall:

22

1           (i) Give the merchant access in this state to  
2 the complete rules referenced in the contract, either  
3 individually or through an acquiring bank;

4  
5           (ii) Notify the merchant when a referenced rule  
6 has been changed or a new rule added; and

7  
8           (iii) Provide a copy of the new or modified  
9 rule.

10

11           (b) A contract authorizing a merchant to accept a  
12 credit card shall contain:

13

14           (i) The contracting financial institution's  
15 complete schedule of interchange fees, credit card and  
16 debit card transaction rates and any other fees that the  
17 financial institution charges to merchants; and

18

19           (ii) An explanation of which rates apply to the  
20 merchant and the situations in which those rates apply.

21

22           (c) A contract authorizing a merchant to accept a  
23 credit card or debit card shall not require a merchant to  
24 agree not to disclose the contracting financial

1 institution's rules or rates as a condition of receiving  
2 access to the rules or rates.

3

4 (d) If an issuing bank or credit card company fails  
5 to give a merchant access to its rules or rates as required  
6 by this section:

7

8 (i) The merchant shall not be liable for any  
9 chargeback or fees associated with its credit card or debit  
10 card transactions from the time the contract was executed  
11 until the rules and rates are provided; and

12

13 (ii) The issuing bank or credit card company  
14 shall be liable for a civil penalty of ten thousand dollars  
15 (\$10,000.00) per charge levied prior to providing the  
16 rules.

17

18 (e) Any merchant whose rights under this section  
19 have been violated may maintain a civil action for damages  
20 or equitable relief as provided for in this section.

21

22 **40-25-105. Prohibited items for a credit card**  
23 **contract; penalty.**

24



1 (a) A contract authorizing a merchant to accept a  
2 credit card or debit card shall not:

3

4 (i) Give a financial institution the right to  
5 charge a merchant or deduct from the merchant's account the  
6 cost of a credit card or debit card transaction because the  
7 cost of the transaction exceeds a predetermined amount; or

8

9 (ii) Require a merchant to limit or waive its  
10 rights under this act.

11

12 (b) Any merchant whose rights under this section have  
13 been violated may maintain a civil action for damages or  
14 equitable relief as provided for in this section.

15

16 (c) Any person who violates this section shall be  
17 subject to a civil penalty of five thousand dollars  
18 (\$5,000.00) per violation.

19

20 **40-25-106. Rates prohibited from being applied to the**  
21 **tax portion of a sale; penalty.**

22

23 (a) Discount rates, transaction charges, interchange  
24 rates or any other charges or fees charged to merchants or

1 deducted from credit card or debit card sales for  
2 processing credit card or debit card transactions shall not  
3 be applied to the tax portion of any credit card or debit  
4 card sales.

5

6 (b) Any merchant whose rights under this section have  
7 been violated may maintain a civil action for damages or  
8 equitable relief as provided for in this section.

9

10 (c) Any person who violates this section shall be  
11 subject to a civil penalty of five thousand dollars  
12 (\$5,000.00) per violation.

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14 **40-25-107. Applicability.**

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16 The provisions of this act shall not be construed to impair  
17 any contract between a financial institution and a merchant  
18 which was entered prior to July 1, 2012. The provisions of  
19 this chapter shall apply only to new contracts between a  
20 financial institution and a merchant entered into on or  
21 after July 1, 2012.

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1           **Section 2.** This act is effective July 1, 2012.

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(END)