

As Introduced

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H. B. No. 545

Representative Yuko

Cosponsors: Representatives Letson, Domenick, Brown, Pryor, Book

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A B I L L

To enact sections 1319.21, 1319.22, 1319.23, and 1
3741.15 of the Revised Code to require disclosure 2
to a merchant of the operating rules referenced 3
in, or otherwise applicable as terms and 4
conditions of, an electronic payment system 5
contract, to permit the merchant to disclose 6
operating rule information, to permit a retail 7
dealer of gasoline to offer discount prices for 8
gasoline purchases made by cash, debit card, 9
check, or any similar means rather than by credit 10
card, and to prohibit a franchise contract from 11
limiting a franchisee from offering such a 12
discount. 13

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1319.21, 1319.22, 1319.23, and 14
3741.15 of the Revised Code be enacted to read as follows: 15

Sec. 1319.21. As used in sections 1319.21 to 1319.23 of the 16
Revised Code: 17

(A) "Access" means disclosure through electronic means that 18
enables a merchant to download and print information or, if a 19

merchant does not have electronic capability, disclosure in 20
writing timely postmarked to comply with division (A) or (B) of 21
section 1319.22 of the Revised Code. 22

(B) "Chargeback" means a transaction and any associated fees 23
that are billed back to a merchant under an electronic payment 24
system contract or deducted from a merchant account in connection 25
with a credit card or debit transaction. 26

(C)(1) "Credit card" means an instrument or device that is 27
issued by a person for or not for a fee and that authorizes the 28
cardholder to obtain money, a good, a service, or anything of 29
value that, when obtained, are obtained both: 30

(a) On credit or in possession or in consideration of an 31
undertaking or guaranty by the card issuer of a payment drawn by 32
the cardholder on a promise to pay the associated amount in part 33
or in full, whether or not all or any part of the indebtedness 34
represented by the promise to make a deferred payment is secured 35
or unsecured; 36

(b) Under a number assigned to the instrument or device, even 37
if the physical instrument or device is not used or presented. 38

(2) An instrument or device described in division (C)(1) of 39
this section is a credit card whether known by that or any other 40
name, such as a charge card, credit plate, courtesy card, or 41
identification card. 42

(D) "Credit card or debit card transaction" means a 43
transaction under which a cardholder uses a credit card or debit 44
card as payment to obtain money, a good, a service, or any other 45
thing of value. 46

(E)(1) "Debit card" means an instrument or device, excluding 47
a check, that enables a person to obtain money, a good, a service, 48
or anything of value by authorizing the withdrawal of money from 49
the person's deposit account or by using the value stored on the 50

instrument or device and means the number assigned to the 51
instrument or device even if the physical instrument or device is 52
not used or presented. 53

(2) An instrument or device described in division (E)(1) of 54
this section is a debit card whether known by that name or any 55
other name, such as an electronic benefit transfer card, stored 56
value card, smart card, access card, or benefit card. 57

(F) "Deposit account" means a demand, time, savings, 58
passbook, or similar account maintained with a financial 59
institution. 60

(G) "Electronic payment system" means a payment system 61
consisting of one or more financial institutions and of a network 62
organization that electronically provides authorization, clearing, 63
and settlement services for credit card and debit card 64
transactions accepted by merchants. 65

(H) "Electronic payment system contract" means a contract 66
that subjects merchant acceptance of credit cards or debit cards 67
to the operating rules of an electronic payment system. 68

(I) "Fee" means any rate or specific amount of money, 69
including an interchange fee, chargeback, or transaction 70
pass-through fee and including any penalty. 71

(J) "Financial institution" means any bank, trust, company, 72
savings bank, savings and loan association, or credit union that 73
is incorporated or organized under the laws of the United States 74
or any of its states, or of Canada or any of its provinces, and is 75
subject to regulation or supervision by such country, state, or 76
province. 77

(K) "Interchange fee" means an amount deducted from a deposit 78
to a merchant's deposit account as compensation or reimbursement 79
for the processing by an electronic payment system of a credit 80
card or debit card transaction accepted by the merchant. 81

(L) "Merchant" means a person that is engaged in business in this state and sells or leases in this state any good, service, or anything of value to an end user and not for resale or sublease. 82
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(M) "Operating rule" means any law, rule, policy, regulation, or procedure governing the processing of a credit card or debit card transaction by an electronic payment system. 85
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(N) "Penalty" means any transaction downgrade that occurs, or any amount that is charged to a merchant, due to the merchant's not meeting the operating rules referenced in, or otherwise applicable as terms and conditions of, an electronic payment system contract. 88
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(O) "Transaction pass-through fee" means a settlement fee, risk fee, access fee, due, assessment, or other fee, excluding an interchange fee, that is not set solely by two or more persons jointly and is associated with a credit card or debit card transaction and paid by the merchant under an electronic payment system contract. 93
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Sec. 1319.22. (A) No person shall enter into or operate under an electronic payment system contract with a merchant without providing or ensuring the provision of complete access to all operating rules referenced in, or otherwise applicable as terms and conditions of, that contract, including clear and complete disclosure of any fee charged under the contract and the situation under which the fee may apply. That access shall be provided either directly to the merchant party to the contract or to the merchant through the person with whom the merchant has a merchant account. 99
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(B) No person shall fail to provide to a merchant that is party to an electronic payment system contract notice of and subsequent access to any applicable operating rule change or new operating rule under the contract. That notice and access shall be 109
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provided at least five business days in advance of the effective 113
date of the rule change or new rule. 114

(C) No person shall prohibit a merchant, as a condition to 115
access under division (A) or (B) of this section, from disclosing 116
any information obtained pursuant to that access. 117

Sec. 1319.23. A merchant aggrieved by a violation of division 118
(A), (B), or (C) of section 1319.22 of the Revised Code may bring 119
a civil action in a court of competent jurisdiction in this state 120
against the person committing the violation to recover any 121
resultant damages for injury, death, or loss to persons or 122
property and to obtain equitable relief, including reimbursement 123
to the merchant for any fee charged to the merchant under the 124
electronic payment system contract during the period of violation. 125
In addition, the court may award a prevailing merchant an amount 126
equal to ten thousand dollars per each type of fee charged to the 127
merchant under the electronic payment system contract during that 128
period, and the prevailing merchant shall be awarded attorney's 129
fees and court costs. 130

Sec. 3741.15. (A) A retail dealer of gasoline may offer a 131
discount on gasoline purchases made by cash, debit card, check, or 132
any similar means of payment other than by credit card. 133

(B) No contract or agreement between a gasoline franchisor 134
and a retail dealer of gasoline shall prohibit the retail dealer 135
from offering a discount as this section allows. Any provision of 136
a franchise contract or agreement that prohibits a retail dealer 137
from offering a discount as described in division (A) of this 138
section is void and unenforceable as against public policy. 139

(C) As used in this section, "retail dealer" means a person 140
who owns, operates, controls, or supervises an establishment at 141
which gasoline is sold or offered for sale to the public. 142