



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 12

128th General Assembly

(As Reported by H. Consumer Affairs & Economic Protection)

Reps. Lundy, Schneider, Fende, Newcomb, Koziura, Dyer, Harris, Murray, DeGeeter, Phillips, B. Williams, DeBose, Hagan, Skindell, Okey, Luckie, Letson, S. Williams, Sykes

BILL SUMMARY

- Prohibits certain types of activities in the marketing of credit cards to college students and imposes a \$2,500 fine for each violation.
- Prohibits institutions of higher education from releasing certain student information for use in profit-making plans and activities and from otherwise facilitating credit card marketing to college students.
- Requires institutions of higher education to adopt and adhere to policies concerning financial literacy education and credit card marketing at athletic events.
- Allows a state institution of higher education to enter into certain agreements with an alumni organization only if, under the agreement, the state institution of higher education maintains a copy of any agreement the alumni organization has with another entity to market credit cards to the state institution's former students.
- Requires the Ohio Board of Regents to provide a written report of certain state-college contracts for credit card marketing to students or the release of student information in violation of the bill's provisions.

CONTENT AND OPERATION

Overview

Under current law, credit card marketing on college campuses and to students living on campus is not restricted. Furthermore, institutions of higher education in this state are allowed under current law to facilitate such marketing through contracts for

the release of student directory information and by otherwise permitting on-campus marketing. The bill prohibits most credit card marketing on campus, at college-sanctioned events, and by mail to on-campus student housing. The bill also prohibits state and private institutions of higher education from facilitating these prohibited marketing practices and requires those institutions to adopt and adhere to certain policies concerning permissible campus credit card marketing and financial literacy education for students.

Credit card marketing to college students

(R.C. 1349.38 and 1349.99)

On-campus marketing

The bill prohibits most credit card marketing at colleges and college-sanctioned events. Specifically, the bill prohibits any person from knowingly engaging in "campus credit card marketing activities." Those activities are defined in the bill as any activity conducted by an agent or employee of a card issuer that is (1) on property in this state that is owned or operated by a state or private institution of higher education, including campuses, or at an event that is sanctioned by such an institution, and (2) designed to encourage and enable students to apply for a credit card.¹

The bill stipulates that credit card marketing activities include the act of placing on public and private college campuses in this state a display or poster along with a form that can be returned to the card issuer as a credit card application. The credit issuer agent or employee need not be present at a display in order for the placement of the display to constitute a prohibited act under the bill. "Campus credit card marketing activities" do not include (1) activities that occur inside the banking office of a bank, savings and loan association, or savings bank, or inside the office of a credit union that is organized under the laws of this state, (2) activities that occur at an automated teller machine that is owned, leased, or operated by a bank, savings and loan association, savings bank, or credit union, (3) displaying a company logo or otherwise advertising a business in a manner that does not encourage and enable students to apply for a credit card, and (4) marketing credit cards at athletic events, provided that students are not permitted to complete a credit card application.

¹ "Credit card" and "card issuer" are defined in the bill by cross reference to the federal "Truth in Lending Act," 82 Stat. 146 (1968), 15 U.S.C. 1601. In that Act, "credit card" means any card, plate, coupon book or other credit device existing for the purpose of obtaining money, property, labor, or services on credit. The term "card issuer" means any person who issues a credit card, or the agent of such person with respect to such card. The bill specifically excludes from the definition of "credit card" a debit card or other access device that is a means to withdraw funds or initiate an electronic funds transfer from a deposit account.

Mail marketing

The bill also prohibits any person from knowingly mailing an advertisement or offer for a credit card to an on-campus student housing address. The bill defines "on-campus student housing" as a dormitory or other student residence that is either (1) located on the campus of a state or private institution of higher education or (2) located in this state and owned or operated by an institution.

Penalties and enforcement

The bill imposes a \$2,500 fine for each violation discussed above.

Institutions of higher education

(R.C. 3345.331)

Release of student information prohibited

Under the federal "Family Educational Rights and Privacy Act of 1974" (FERPA) (20 U.S.C. § 1232g), the federal government may deny federal funding to any educational institution that has a policy or practice of permitting the release of personally identifiable information contained in education records, other than directory information, without the written consent of the parents. An educational institution may disclose directory information, including student name, address, telephone listing, and date and place of birth, but only when public notice has been given and students and parents have had an opportunity to request that certain information not be disclosed.

The bill prohibits state and private institutions of higher education from releasing student directory information to any person or group for use in a profit-making plan or activity. The bill also prohibits those institutions' agents, employees, student or alumni organizations, booster organizations, and affiliates from doing the same. "Student directory information" is defined in the bill to include the name, address, telephone listing, date and place of birth, social security number, and e-mail address of a student who is currently enrolled in an institution of higher education.

Other prohibited means of facilitating credit card marketing to college students

The bill prohibits state and private institutions of higher education from: (1) entering into, renewing, and rolling-over contracts and agreements with any entity to market credit cards to students, (2) permitting a card issuer to promote a credit card business or to solicit or distribute applications for a credit card on the property of the institution or at any event sanctioned by the institution, unless the promotion, solicitation, or distribution is specifically excluded from the definition of "campus credit

card marketing activity" under section 1349.38 of the Revised Code (see "**Credit card marketing to college students**" above), and (3) promoting a credit card business on the institution's Internet site. With regard to Internet promotions of a credit card business, private institutions of higher education that have campuses only in this state and state institutions of higher education are additionally prohibited from including an electronic link to a credit card business' Internet site. Presumably, private institutions that have campuses both within and outside Ohio would not be subject to that provision.

Education and on-campus credit card marketing policies

The bill requires state and private institutions of higher education to adopt and adhere to policies that provide for financial literacy education as part of student orientation. The bill also requires those institutions to adopt and adhere to policies that provide for oversight and enforcement of permissible credit card marketing at athletic events. With regard to the latter required policy, credit card marketing at an athletic event that is sanctioned by or located on the property of an institution of higher education is not prohibited under the bill as campus credit card marketing activity so long as students are not permitted to complete a credit card application (see "**On-campus marketing**" above). An institution of higher education can permit that type of lawful marketing under the bill, but it must adopt a policy providing for oversight and enforcement of the permitted activity.

Contracts with alumni organizations

The bill prohibits institutions of higher education, alumni organizations, and others from entering into agreements to market credit cards to current students but the bill does not prohibit those types of agreements as they relate to former students (see "**Other prohibited means of facilitating credit card marketing to college students**" above). With regard to credit card marketing agreements concerning former students, the bill does require certain contract provisions under which some of those agreements would be made public record. Under the bill, a state institution of higher education can enter into an agreement with an alumni organization that permits the alumni organization to use the state institution's name, image, and likeness, but only if under the agreement the state institution of higher education maintains as a public record a full and unredacted copy of any agreement the alumni organization has with another entity to market credit cards to the state institution's former students.²

² This provision, and any other provision in the bill concerning contracts, only applies to contracts entered into on or after the bill's effective date.

Any state institution of higher education that receives funds from an agreement between an alumni organization and another entity to market credit cards to former students must use a portion of those funds to provide for financial literacy education for its current students. The funds can be used to finance either the financial literacy education that state institutions of higher education are required under the bill to provide during student orientation or any other program of financial literacy that the state institution of higher education offers its students. The bill does not mandate what portion of the funds must be used for this purpose; instead, it allows each state institution of higher education to determine the portion.

Ohio Board of Regents report

The bill requires the Ohio Board of Regents to provide a written report to the Speaker of the House of Representatives and the President of the Senate within 30 days of the bill's effective date. The report must include a list of all contracts currently in effect between a state institution of higher education and any entity to market credit cards to students. The report also must include a list of all contracts between a state institution of higher education or the institution's agents, employees, student or alumni organizations, or affiliates, and any other entity involving the release of student directory information to that entity.

HISTORY

ACTION	DATE
Introduced	02-17-09
Reported, H. Consumer Affairs & Economic Protection	04-08-09

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