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**Business & Financial Services Committee**

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**HB 1870**

**Brief Description:** Addressing methods of payment.

**Sponsors:** Representatives Habib, Kirby, Ryu, Van De Wege, Takko, Hunter, Appleton, Tarleton, Sawyer, Seaquist, Pollet, Bergquist and Johnson.

**Brief Summary of Bill**

- Prohibits a person that accepts credit cards for the transaction of business from imposing a surcharge for the use of a credit card in lieu of payment by cash, check, or similar means.
- Allows the offering of a discount for the purpose of inducing payment by cash, check, or other means not involving the use of a credit card.
- Requires any discount to be clearly and conspicuously disclosed and to be offered to all prospective buyers.

**Hearing Date:** 2/19/13

**Staff:** Jon Hedegard (786-7127).

**Background:**

A number of payment card networks contractually prohibited any person who accepts the networks' brands of credit card from adding a surcharge for the use of the credit card instead of another payment method. Several of those payment card networks and a number of card issuers were sued by a group of merchants regarding a host of credit card related issues in the United States District Court, Eastern District of New York. A settlement in the case, *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, has been preliminarily approved by the judge. As part of the settlement, those card issuers may not prohibit a surcharge on credit card purchases as long as the person imposing the surcharge meets certain requirements. The restrictions include:

- treating all credit cards similarly, regardless of issuer;
- disclosure to customers; and

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- a cap on the fee of up to 4 percent of amount of the transaction.

In 2010, The Dodd–Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) was signed into law. The Dodd-Frank Act is specifically prohibits a payment card network from preventing the offering of a discount to provide an incentive for the use of cash, debit cards, or credit cards. A discount is defined by the Dodd-Frank Act as a reduction made from the price that customers are informed is the regular price. A discount does not include any means of increasing the price that customers are informed is the regular price.

The Dodd-Frank Act provides that any discount:

- must not differentiate based on the card issuer or payment card network;
- must be offered to all prospective buyers;
- must be clearly and conspicuously disclosed; and
- must comply with state and federal law.

A number of states have prohibited surcharges for the use of a credit card instead of another payment method.

State law provides that a person that accepts credit cards or debit cards for the transaction of business may not print more than the last five numbers of an account number or print the expiration date on an electronic receipt that is retained by the person or is provided to the cardholder. This restriction does not apply if the means of recording the number is by imprint or handwriting.

**Summary of Bill:**

A person that accepts credit cards for the transaction of business is prohibited from imposing a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means.

The prohibition on credit card surcharges does not prohibit the offering of a discount for the purpose of inducing payment by cash, check, or other means not involving the use of a credit card. Any discount must be offered to all prospective buyers and the availability of the discount must be clearly and conspicuously disclosed.

The new requirements are located in the RCW chapter that addresses the truncation of credit card and debit card numbers. The definitions in that chapter are moved to a new definition section.

**Appropriation:** None.

**Fiscal Note:** Requested on February 14, 2013.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.