

HOUSE BILL REPORT

HB 2350

As Reported by House Committee On:

Financial Institutions & Insurance

Title: An act relating to the imposition of fees related to the use of automated teller machines.

Brief Description: Regulating fees for using an automated teller machine.

Sponsors: Representatives Ericksen, Moeller and Benson.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 1/20/04, 2/4/04 [DPS].

Brief Summary of Substitute Bill

- Allows the owner of an automated teller machine (ATM) to charge an access fee or surcharge to any customer, whether they are using an account from within our outside of the United States.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Schual-Berke, Chair; G. Simpson, Vice Chair; Benson, Ranking Minority Member; Newhouse, Assistant Ranking Minority Member; Cairnes, Carrell, Cooper, Hatfield, Roach, Santos and D. Simpson.

Staff: Carrie Tellefson (786-7127).

Background:

Financial institutions may issue debit and credit cards to their customers for use at automated teller machines (ATM) throughout the United States and around the world to obtain cash, bank balances, view and make bank transactions, and, in some cases, receive stamps. The issuing financial institution may charge the customer a convenience fee when a card is used at an ATM. In addition, the owner of an ATM may charge an access fee. The owner keeps the access fee for each ATM transaction, which is paid by the cardholder's issuing financial institution. Financial institutions, international sales

organizations sponsored by a financial institution, and merchants may "own" ATMs for use by the public on owned or leased premises.

Some card networks have contractually prohibited ATM owners from imposing an access fee on holders of foreign bank cards. Twelve states have enacted legislation prohibiting such restriction on ATM owners, thus allowing ATM owners to impose access fees on all users.

An ATM is an electronic information processing device located in this state that accepts or dispenses cash in connection with a credit, deposit, or convenience account. The ATMs do not include a device used primarily to facilitate check guarantees or check authorizations, used in connection with the acceptance or dispensing of cash on a person-to-person basis such as by a store cashier, or used for payment of goods and services.

Summary of Substitute Bill:

Owners of ATMs may charge an access fee or surcharge to any customer, whether they hold an account within or outside of the United States.

Substitute Bill Compared to Original Bill:

Language stating that an agreement to operate an ATM may not prohibit or restrict the operator from charging such a fee is removed.

"Automated teller machine" is defined as set forth in current law. "Financial institution" is defined as set forth in current law.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The practical problem is that while Canadian customers can push the button on the ATM to accept the fee, the machine owner cannot charge them.

There are two types of fees. One is charged by the machine and one is charged by the financial institution. Depending on which machine you're using, you will be charged different fees. There is a concern that the bill, as drafted, would prohibit credit unions from being able to not charge fees. The amendment will solve that concern.

(Concerns) You're making a legislative solution to a contractual problem. This should be taken up cautiously. However, this is a limited circumstance. Financial institutions are already charging Canadian customers' fees.

Business owners started using ATMs in 1996 and there wasn't a problem with charging fees at that time. Anyone outside the country who comes in and uses independent machines are not charged a fee now. VISA PLUS is not opposing the bill. They're actually helping with it. When a store buys an ATM, it's a significant investment. They cost around \$5,000 and then they have to be filled with money. Merchants should be allowed to recoup their investment.

Testimony Against: None.

Persons Testifying: Representative Ericksen, prime sponsor; Ghandi Vwich, ATM Express Bancard Systems; and Eric Schneider, Bancard Systems-Schneider Solutions.

(Concerns) Gary Gardner, Boeing Employees Credit Union; and Denny Eliason, Washington Bankers Association.

Persons Signed In To Testify But Not Testifying: None.