

HOUSE BILL REPORT

SB 6349

*As Reported By House Committee on:
Financial Institutions & Insurance*

Title: An act relating to the unlawful factoring of credit card transactions.

Brief Description: Defining unlawful factoring of credit card transactions.

Sponsor(s): Senators von Reichbauer, Owen and Pelz.

Brief History:

Reported by House Committee on:
Financial Institutions & Insurance, February 28, 1992,
DPA.

**HOUSE COMMITTEE ON
FINANCIAL INSTITUTIONS & INSURANCE**

Majority Report: *Do pass as amended.* Signed by 13 members: Representatives Dellwo, Chair; Zellinsky, Vice Chair; Broback, Ranking Minority Member; Mielke, Assistant Ranking Minority Member; Anderson; Dorn; Inslee; R. Johnson; R. Meyers; Paris; Schmidt; Scott; and Winsley.

Staff: John Conniff (786-7119).

Background: Under current state law, factoring of credit card transactions is not illegal. Factoring occurs when a merchant (the factor) who has a merchant agreement with a financial institution processes the credit card transactions for a second merchant who does not have a merchant agreement with a financial institution. This merchant often pays a fee, usually a certain percentage of the total sales processed, to the merchant who factors the credit card transactions.

When a business wishes to allow the purchase of goods or services with a bank card but does not want to or cannot obtain an agreement with a bank that might discover that the business is engaged in unlawful activity, the business makes a deal with a merchant who does have an agreement with a bank. Such factoring transactions often result in significant losses of time and money to consumers who do not receive the expected product or service ordered and to the financial institutions which provide chargebacks to these

customers and must then seek reimbursement for the chargebacks from the merchants who processed the transactions.

Summary of Amended Bill: A person can be found guilty of unlawful factoring if he or she intentionally or knowingly presents to, or deposits with a financial institution for payment, a credit card transaction record not resulting from a transaction between himself or herself and the cardholder; causes a merchant to present or deposit with a financial institution for payment a credit card transaction record that is not the result of a credit card transaction between the cardholder and the merchant; or causes another to become a merchant for the purposes of engaging in unlawful factoring. Normal transactions conducted by and/or through airline reporting corporation appointed travel agents are not considered unlawful factoring.

Unlawful factoring of credit card transactions constitutes a class C felony.

Amended Bill Compared to Original Bill: Credit card payments for airline tickets placed through the airline reporting corporation do not constitute illegal credit factoring transactions.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Trevor Sandison: By making certain credit card factoring activities illegal, consumers will be protected from sellers who accept credit cards in payment for products and services and subsequently disappear leaving financial institutions or other merchants with uncollectible debts. Joe Daniels: Travel agents who accept payment by credit card for airline tickets should be exempted.

Testimony Against: None.

Witnesses: (Pro): Trevor Sandison, Washington Bankers Association; and Joe Daniels, Washington State Coalition of Travel.