

BUSINESS AND COMMERCE CODE

TITLE 12. RIGHTS AND DUTIES OF CONSUMERS AND MERCHANTS

CHAPTER 604A. PROHIBITION OF CERTAIN SURCHARGES

Sec. 604A.001. DEFINITIONS. In this chapter:

(1) "Cardholder" means the person named on the face of a debit or stored value card to whom or for whose benefit the card is issued.

(1-a) "Credit card" has the meaning assigned by Section 502.001.

(2) "Debit card" has the meaning assigned by Section 502.001.

(3) "Merchant" means a person in the business of selling or leasing goods or services.

(4) "Stored value card" has the meaning assigned by Section 604.001(1), but does not include the meaning assigned by Section 604.001(2).

(5) "Surcharge" means an increase in the price charged for goods or services imposed on a buyer who pays with a credit, debit, or stored value card that is not imposed on a buyer who pays by other means. The term does not include a discounted price charged for goods or services to a buyer who pays with cash.

Transferred, redesignated and amended from Finance Code, Subchapter E, Chapter 59 by Acts 2015, 84th Leg., R.S., Ch. 113 (S.B. 641), Sec. 1, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 196 (S.B. 560), Sec. 1, eff. September 1, 2017.

Sec. 604A.002. IMPOSITION OF SURCHARGE FOR USE OF DEBIT OR STORED VALUE CARD. (a) In a sale of goods or services, a merchant may not impose a surcharge on a buyer who uses a debit or stored value card instead of cash, a check, credit card, or a similar means of payment.

(b) This section does not apply to:

(1) a state agency, county, local governmental entity, or other governmental entity that accepts a debit or stored value

card for the payment of fees, taxes, or other charges; or

(2) a private school that accepts a debit card for the payment of fees or other charges, as provided by Section [111.002](#), Business & Commerce Code.

Transferred, redesignated and amended from Finance Code, Subchapter E, Chapter 59 by Acts 2015, 84th Leg., R.S., Ch. 113 (S.B. [641](#)), Sec. 1, eff. September 1, 2015.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 357 (H.B. [1881](#)), Sec. 2, eff. June 9, 2015.

Sec. 604A.0021. IMPOSITION OF SURCHARGE FOR USE OF CREDIT CARD. (a) In a sale of goods or services, a seller may not impose a surcharge on a buyer who uses a credit card for an extension of credit instead of cash, a check, or a similar means of payment.

(b) This section does not apply to:

(1) a state agency, county, local governmental entity, or other governmental entity that accepts a credit card for the payment of fees, taxes, or other charges; or

(2) a private school that accepts a credit card for the payment of fees or other charges, as provided by Section [111.002](#).

(c) This section does not create a cause of action against an individual for violation of this section.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.18(a), eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. [955](#)), Sec. 2.15, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 63 (H.B. [2548](#)), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 357 (H.B. [1881](#)), Sec. 3, eff. June 9, 2015.

Transferred, redesignated and amended from Finance Code, Section 339.001 by Acts 2017, 85th Leg., R.S., Ch. 196 (S.B. [560](#)), Sec. 9, eff. September 1, 2017.

Sec. 604A.003. CIVIL PENALTY. (a) A person who knowingly

violates Section 604A.002 or 604A.0021 is liable to the state for a civil penalty in an amount not to exceed \$500 for each violation. The attorney general or the prosecuting attorney in the county in which the violation occurs may bring:

(1) a suit to recover the civil penalty imposed under this section; and

(2) an action in the name of the state to restrain or enjoin a person from violating this chapter.

(b) Before bringing the action, the attorney general or prosecuting attorney shall give the person notice of the person's noncompliance and liability for a civil penalty. The notice must:

(1) contain guidance to assist the person in complying with this chapter;

(2) advise the person of the prohibitions under Sections 604A.002 and 604A.0021; and

(3) state that the person may be liable for a civil penalty for a subsequent violation of Section 604A.002 or 604A.0021.

(b-1) If the person complies with Sections 604A.002 and 604A.0021 not later than the 30th day after the date of the notice under Subsection (b), the violation is cured and the person is not liable for the civil penalty. A person who has previously received notice of noncompliance under Subsection (b) is not entitled to notice of or the opportunity to cure a subsequent violation of Section 604A.002 or 604A.0021.

(c) The attorney general or the prosecuting attorney, as appropriate, is entitled to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, under this section, including reasonable attorney's fees, court costs, and investigatory costs.

Transferred, redesignated and amended from Finance Code, Subchapter E, Chapter 59 by Acts 2015, 84th Leg., R.S., Ch. 113 (S.B. 641), Sec. 1, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 196 (S.B. 560), Sec. 2, eff. September 1, 2017.