

Senator Curtis S. Bramble proposes the following substitute bill:

CONSUMER PROTECTION REVISIONS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill prohibits sellers from imposing a surcharge on a transaction paid for with a ~~Ⓢ~~→ [financial transaction] credit ←~~Ⓢ~~ card.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits sellers from imposing a surcharge on a transaction for \$10,000 or less that is paid for with a ~~Ⓢ~~→ [financial transaction] credit ←~~Ⓢ~~ card;
- ▶ repeals the provisions in this bill related to ~~Ⓢ~~→ [financial transaction] credit ←~~Ⓢ~~ card surcharges on

June 30, 2014, subject to sunset review; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-213, as last amended by Laws of Utah 2011, Chapter 15



26 ENACTS:

27 **13-38a-101**, Utah Code Annotated 1953

28 **13-38a-201**, Utah Code Annotated 1953

29 **13-38a-202**, Utah Code Annotated 1953

30 **13-38a-301**, Utah Code Annotated 1953

31 **13-38a-302**, Utah Code Annotated 1953

32 RENUMBERS AND AMENDS:

33 **13-38a-102**, (Renumbered from 13-38-101, as enacted by Laws of Utah 2003, Chapter
34 9)

35 **13-38a-203**, (Renumbered from 13-38-102, as enacted by Laws of Utah 2003, Chapter
36 9)



38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **13-38a-101** is enacted to read:

40 **CHAPTER 38a. FINANCIAL TRANSACTION CARD PROTECTION ACT**

41 **Part 1. General Provisions**

42 **13-38a-101. Title.**

43 (1) This chapter is known as the "Financial Transaction Card Protection Act."

44 (2) This part is known as "General Provisions."

45 Section 2. Section **13-38a-102**, which is renumbered from Section 13-38-101 is
46 renumbered and amended to read:

47 ~~[13-38-101].~~ **13-38a-102. Definitions** ~~§→~~ ~~[-- Financial transaction card receipt~~
48 ~~requirements] ←§ .~~

49 [(†)] As used in this chapter:

50 [(a)] "Division" means the Division of Consumer Protection in the Department of
51 Commerce.]

52 [(b)(†)] (1)(a) "Financial transaction card" means any card, code, or other means of
53 access to a person's account issued to a person that allows the person to obtain, purchase, or
54 receive any of the following:

55 [(A)] (i) goods;

56 [(B)] (ii) services;

57 ~~[(C)]~~ (iii) money; or
 58 ~~[(D)]~~ (iv) anything else of value.
 59 ~~[(H)]~~ (b) "Financial transaction card" includes:
 60 ~~[(A)]~~ (i) a credit card;
 61 ~~[(B)]~~ (ii) a credit plate;
 62 ~~[(C)]~~ (iii) a bank services card;
 63 ~~[(D)]~~ (iv) a banking card;
 64 ~~[(E)]~~ (v) a check guarantee card;
 65 ~~[(F)]~~ (vi) a debit card;
 66 ~~[(G)]~~ (vii) a telephone credit card; and
 67 ~~[(H)]~~ (viii) a device for access as defined in Section 7-16a-102.
 68 ~~[(e)]~~ (2) "Receipt" means any document related to the transaction of business provided
 69 to a person that uses a financial transaction card.

70 ~~[(2) A person that accepts a financial transaction card for the transaction of business~~
 71 ~~may not, on a financial transaction card receipt:]~~

72 ~~[(a) print more than the last five digits of the financial transaction card account~~
 73 ~~number; or]~~

74 ~~[(b) print the financial transaction card expiration date.]~~

75 ~~[(3) (a) This section applies only to receipts that are electronically printed.]~~

76 ~~[(b) This section does not apply to transactions in which the initial means of recording~~
 77 ~~the financial transaction card number is by:]~~

78 ~~[(i) handwriting; or]~~

79 ~~[(ii) an imprint or copy of the financial transaction card.]~~

80 ~~(3)~~ ~~→~~ ~~(a)~~ ~~←~~ ~~→~~ "Seller" means a person ~~→~~ ~~[, other than a government entity;]~~ ~~←~~ ~~→~~ that
 80a accepts payment by a
 81 financial transaction card.

81a ~~→~~ ~~(b)~~ **"Seller" does not include:**

81b **(i) a government entity; or**

81c **(ii) a person acting on behalf of a government entity.** ~~←~~ ~~→~~

82 ~~(4)~~ ~~→~~ ~~(a)~~ ~~←~~ ~~→~~ "Surcharge" means an additional charge added to a transaction paid for by
 82a using a

83 ~~→~~ ~~[financial transaction] credit~~ ~~←~~ ~~→~~ card, but not added to a transaction paid for by a means other
 83a than a

84 ~~→~~ ~~[financial transaction] credit~~ ~~←~~ ~~→~~ card.

84a ~~→~~ ~~(b)~~ **"Surcharge" does not include:**

84b **(i) an exclusion from a discount that is offered on transactions paid for by**
 84c **means other than a credit card;**

84d **(ii) a fee charged by a credit card company for use of a credit card; or**

84e **(iii) a fee authorized under Section 7-16a-202. ←§**

85 Section 3. Section **13-38a-201** is enacted to read:

86 **Part 2. Financial Transaction Card Receipts**

87 **13-38a-201. Title.**

88 This part is known as "Financial Transaction Card Receipts."

89 Section 4. Section **13-38a-202** is enacted to read:

90 **13-38a-202. Limitation on information contained in receipts.**

91 (1) A person that accepts a financial transaction card for the transaction of business
92 may not, on a financial transaction card receipt:

93 (a) print more than the last five digits of the financial transaction card account number;

94 or

95 (b) print the financial transaction card expiration date.

96 (2) (a) This section applies only to receipts that are electronically printed.

97 (b) This section does not apply to transactions in which the initial means of recording
98 the financial transaction card number is by:

99 (i) handwriting; or

100 (ii) an imprint or copy of the financial transaction card.

101 Section 5. Section **13-38a-203**, which is renumbered from Section 13-38-102 is
102 renumbered and amended to read:

103 ~~[13-38-102].~~ **13-38a-203. Private action.**

104 (1) A person may bring an action in any state court of competent jurisdiction against a
105 person that violates any of the requirements of this chapter.

106 (2) In an action under Subsection (1), a person may:

107 (a) recover the amount of any actual damages caused by the violation of this chapter;

108 (b) recover court costs and reasonable attorney fees as determined by the court; and

109 (c) seek to enjoin conduct in violation of this chapter.

110 Section 6. Section **13-38a-301** is enacted to read:

111 **Part 3. ~~§→ [Financial Transaction] Credit ←§~~ Card Surcharges**

112 **13-38a-301. Title.**

113 This part is known as " ~~§→ [Financial Transaction] Credit ←§~~ Card Surcharges."

114 Section 7. Section **13-38a-302** is enacted to read:

115 **13-38a-302. ~~§→ [Financial transaction] Credit ←§~~ card surcharges prohibited.**

116 (1) A seller may not impose a surcharge on a transaction for \$10,000 or less that is paid
117 for by using a ~~§→ [financial transaction] credit ←§~~ card.

118 (2) ~~§→ [A seller may offer a discount on a transaction that is paid for by means other than~~
~~a←§~~

119 ~~§~~→ ~~[financial transaction] credit~~ ←~~§~~ ~~card~~] This section does not prohibit a seller from offering a
119a discount on a transaction that is paid for with a credit card that:

119b (a) is issued by the seller or an entity that is affiliated with the seller; or

119c (b) bears the seller's service mark or trademark ←~~§~~ .

120 Section 8. Section **63I-1-213** is amended to read:

121 **63I-1-213. Repeal dates, Title 13.**

122 (1) Subsections 13-38a-102(3) and 13-38a-102(4) are repealed June 30, 2014.

123 (2) Sections 13-38a-301 and 13-38a-302 are repealed June 30, 2014.

124 (3) Title 13, Chapter 16, Motor Fuel Marketing Act, is repealed July 1, 2012.