

HOUSE BILL No. 2856

By Representative Swenson

2-13

9 AN ACT relating to merchants; prohibiting transaction charges on credit
10 or debit cards.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. As used in sections 1 through 3, and amendments thereto,
14 the following terms have the following meanings:

15 (a) “Acquiring bank” means a financial institution licensed to do busi-
16 ness in this state providing merchant accounts;

17 (b) “credit card” means:

18 (1) Any instrument or device, whether known as a credit card, charge
19 card, credit plate, courtesy card or identification card or by any other
20 name, issued with or without a fee by an issuer for the use of the card-
21 holder in obtaining money, goods, services or anything else of value, ei-
22 ther on credit or in possession or in consideration of an undertaking or
23 guaranty by the issuer of the payment of a check drawn by the cardholder
24 on a promise to pay in part or in full at a future time, whether or not all
25 or any part of the indebtedness represented by this promise to make
26 deferred payment is secured or unsecured;

27 (2) any stored value card, smart card or other instrument or device
28 that enables a person to obtain goods, services or anything else of value
29 through the use of value stored on the instrument or device; and

30 (3) the number assigned to an instrument or device described in par-
31 agraphs (1) or (2) even if the physical instrument or device is not used or
32 presented;

33 (c) “debit card” means:

34 (1) Any instrument or device whether known as a debit card, ATM
35 card, electronic benefit transfer card or any other access instrument or
36 device, other than a check, that is signed by the holder or other authorized
37 signatory on the deposit account that draws moneys from a deposit ac-
38 count in order to obtain money, goods, services or anything else of value;
39 and

40 (2) the number assigned to an instrument or device described in par-
41 agraph (1) even if the physical instrument or device is not used or
42 presented;

43 (d) “financial institution” means any bank, savings association, savings

1 bank, credit union or industrial loan company;
2 (e) “interchange fee” means the fee that an acquiring bank pays to
3 an issuing bank when a cardholder uses a credit card or debit card as
4 payment during a retail transaction;
5 (f) “issuing bank” means a financial institution which issues credit
6 cards to cardholders;
7 (g) “merchant account” means a bank account that allows a merchant
8 to accept credit card or debit card payments; and
9 (h) “merchant” means a person or entity licensed to business in this
10 state which offers goods or services for sale in this state.
11 Sec. 2. A contract authorizing a merchant to accept a credit card or
12 debit card may not:
13 (a) Give a financial institution the right to charge a merchant or de-
14 duct from the merchant’s account the cost of a credit card or debit card
15 transaction because the cost of the transaction exceeds a predetermined
16 amount; or
17 (b) require a merchant to limit or waive its rights under this act.
18 Sec. 3. (a) Right of action:
19 (1) Any merchant whose rights under this act have been violated may
20 maintain a civil action for damages or equitable relief as provided for in
21 this section; and
22 (2) the attorney general shall have the power to maintain an action
23 to enforce the penalties provided for in this section.
24 (b) Any person who violates this section will be subject to a civil pen-
25 alty of \$5,000 per violation.
26 Sec. 4. This act shall take effect and be in force from and after its
27 publication in the statute book.