

SENATE BILL REPORT

SB 5002

AS OF JANUARY 23, 1991

Brief Description: Prohibiting merchants from obtaining personal information from credit card users.

SPONSORS: Senators von Reichbauer, Pelz, Talmadge, Gaspard, Thorsness, L. Smith and Johnson.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Staff: Mark Hutson (786-7488)

Hearing Dates: January 24, 1991

BACKGROUND:

A large majority of today's merchants accept credit cards as a means of payment. Merchants who accept credit cards are required, when processing credit card transactions, to follow specific written operating procedures established by Visa, Master Card, American Express, and other credit card issuers. Such operating procedures require a merchant to complete a credit card transaction form, which must be signed by the card holder. In addition, the merchant is required to record the sales date, a description of the goods sold or services rendered, and an approval code number obtained from the credit card issuer's authorization center. No further card holder information is required by the credit card issuer to complete the transaction.

In addition to these credit card transaction procedures, some merchants require consumers to provide additional personal information on credit card sales slips. Such additional personal information generally includes home addresses and telephone numbers.

While merchants justify the acquisition of this information to help them deal with possible chargebacks, some concern has been expressed about whether the consumer's privacy is invaded by the recording of such information. None of the major credit card issuers (i.e., Visa, Master Card, American Express, Discover) require such additional card holder information to complete a credit card transaction because this information already has been provided to the credit card company when the consumer applied for the credit card.

SUMMARY:

This measure prohibits a person who accepts a credit card as payment from requiring the consumer to write or provide personal identification information on the charge slip as a condition of accepting the credit card for payment. In

addition, the use of credit card transaction forms with preprinted spaces for card holder personal identification information is prohibited.

The term "personal identification information" is defined to mean information about the card holder which does not appear on the credit card such as the card holder's telephone number and address. Information about the card holder which is required for special purposes, such as the shipment, delivery, installation of merchandise, or for special orders is exempt from these prohibitions.

A person who violates this measure is subject to a civil penalty of not greater than \$250 for each violation. A civil action to collect such a penalty may be brought by the consumer paying with the credit card, the Attorney General, or the prosecuting or city attorney of the county or city in which the violation occurred. However, no civil penalty is to be imposed if the defendant shows that the violation was not intentional and resulted from a bona fide error in spite of efforts to avoid such an error.

In addition, the Attorney General or any prosecuting or city attorney within his or her respective jurisdiction may bring an action to temporarily restrain and enjoin a violation. In addition, a court may require a violator to pay any or all costs incurred by the Attorney General or by a prosecuting or city attorney.

Appropriation: none

Revenue: none

Fiscal Note: none requested