

SENATE BILL REPORT

SSB 5704

AS PASSED SENATE, MARCH 11, 1993

Brief Description: Penalizing unlawful factoring of credit card transactions.

SPONSORS: Senate Committee on Law & Justice (originally sponsored by Senators Prentice, Moore and Amondson)

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5704 be substituted therefor, and the substitute bill do pass.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, Niemi, Roach, and Spanel.

Staff: Alan Caplan (786-7465)

Hearing Dates: February 26, 1993

HOUSE COMMITTEE ON JUDICIARY

BACKGROUND:

A business that wishes to accept credit cards from its customers must first enter into a merchant agreement with a financial institution. Credit card factoring occurs when a business that has a merchant agreement (the factor) processes the credit card transactions of a second business that has been unable or unwilling to obtain its own merchant agreement. In return, the second business pays a fee to the factor, which often is based on a percentage of the credit sales processed.

It has been reported that certain "disreputable" operators use factoring in connection with schemes to defraud or deceive consumers. These deceptive transactions can produce significant losses to consumers who do not receive bargained-for products or services, and to financial institutions who must reimburse injured consumers.

It has been suggested that criminalizing factoring used to facilitate unfair or deceptive trade practices would help to reduce the operations of "disreputable" businesses in this state.

SUMMARY:

Unlawful factoring of credit card transactions is established as a class C felony.

A person commits the crime of unlawful factoring if he or she facilitates a violation of the Consumer Protection Act by (a)

processing the credit card transactions of another, (b) causing a person to process the credit card transactions of another, or (c) causing a person to become a merchant for the purpose of processing the credit card transactions of another.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

This bill will discourage "fly-by-night" businesses from committing consumer fraud in Washington and will help prevent losses to consumers and banks.

TESTIMONY AGAINST: None

TESTIFIED: Trevor Sandison, Washington Bankers Association

HOUSE AMENDMENT(S):

Facilitation of a violation of the Consumer Protection Act is removed as an element of the offense and replaced with the intent to defraud a cardholder, credit card issuer or financial institution.