

**SENATE BILL REPORT**

**SB 5704**

**AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 26, 1993**

**Brief Description:** Penalizing unlawful factoring of credit card transactions.

**SPONSORS:** 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

**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:**

The original bill was not considered.

**EFFECT OF PROPOSED SUBSTITUTE:**

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