

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 10-0982.01 Kristen Forrestal

SENATE BILL 10-188

SENATE SPONSORSHIP

Penry and Morse,

HOUSE SPONSORSHIP

Ferrandino,

Senate Committees
Business, Labor and Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING A PROHIBITION AGAINST THE IMPOSITION OF A**
102 **SURCHARGE FOR A DEBIT CARD TRANSACTION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Current law prohibits a seller or lessor from imposing a surcharge on a holder of a credit card who elects to use the credit card for any sale or lease transaction. The bill includes a debit card in this prohibition.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
April 19, 2010

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 5-1-301, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW SUBSECTION to read:

4 **5-1-301. General definitions.** In addition to definitions
5 appearing in subsequent articles, as used in this code, unless the context
6 otherwise requires:

7 (17.5) "DEBIT CARD" MEANS A CARD ISSUED BY A FINANCIAL
8 INSTITUTION THAT IS LINKED TO AN ACCOUNT AT THE FINANCIAL
9 INSTITUTION AND MAY BE USED BY THE HOLDER TO MAKE ELECTRONIC
10 CASH WITHDRAWALS AND TO PAY FOR GOODS AND SERVICES. "DEBIT
11 CARD" INCLUDES A PREPAID CARD OR OTHER MEANS OF ACCESS TO
12 PREPAID FUNDS THAT MAY BE USED TO INITIATE ELECTRONIC TRANSFERS
13 OF FUNDS AND MAY BE USED WITHOUT UNIQUE IDENTIFYING
14 INFORMATION, SUCH AS A PERSONAL IDENTIFICATION NUMBER, TO INITIATE
15 ACCESS TO PREPAID FUNDS.

16 **SECTION 2.** 5-1-303, Colorado Revised Statutes, is amended to
17 read:

18 **5-1-303. Index of definitions in code.** Definitions in this code
19 and the sections in which they appear are:

20 "Actuarial method"	section 5-1-301 (1)
21 "Administrator"	sections 5-1-301 (2) and 5-6-103
22 "Agreement"	section 5-1-301 (3)
23 "Agricultural purpose"	section 5-1-301 (4)
24 "Amount financed"	section 5-1-301 (5)
25 "Business day"	section 5-1-301 (6)
26 "Cash price"	section 5-1-301 (7)
27 "Closing costs"	section 5-1-301 (8)

1	"Conspicuous"	section 5-1-301 (9)
2	"Consumer"	section 5-1-301 (10)
3	"Consumer credit insurance"	section 5-4-103 (1)
4	"Consumer credit sale"	section 5-1-301 (11)
5	"Consumer credit transaction"	section 5-1-301 (12)
6	"Consumer insurance	
7	premium loan"	section 5-1-301 (13)
8	"Consumer lease"	section 5-1-301 (14)
9	"Consumer loan"	section 5-1-301 (15)
10	"Credit"	section 5-1-301 (16)
11	"Credit card bank or	
12	financial institution"	section 5-2-213 (1)
13	"Creditor"	section 5-1-301 (17)
14	"Credit Insurance Act"	section 5-4-103 (2)
15	"DEBIT CARD"	SECTION 5-1-301 (17.5)
16	"Dwelling"	section 5-1-301 (18)
17	"Earnings"	section 5-1-301 (19)
18	"Federal 'Truth in Lending	
19	Act'" and "Federal 'Consumer	
20	Leasing Act'"	section 5-1-302
21	"Finance charge"	section 5-1-301 (20)
22	"Goods"	section 5-1-301 (21)
23	"Home solicitation sale"	section 5-3-401
24	"Investment purpose"	section 5-1-301 (22)
25	"Lender"	section 5-1-301 (23)
26	"Lender credit card or	
27	similar arrangement"	section 5-1-301 (24)

1	"Loan"	section 5-1-301 (25)
2	"Loan primarily secured	
3	by an interest in land"	section 5-1-301 (26)
4	"Material disclosures"	section 5-1-301 (27)
5	"Merchandise certificate"	section 5-1-301 (28)
6	"Mobile home"	section 5-1-301 (29)
7	"Official fees"	section 5-1-301 (30)
8	"Organization"	section 5-1-301 (31)
9	"Payable in installments"	section 5-1-301 (32)
10	"Person"	section 5-1-301 (33)
11	"Person related to"	section 5-1-301 (34)
12	"Precomputed"	section 5-1-301 (35)
13	"Presumed" or "Presumption"	section 5-1-301 (36)
14	"Receive"	section 5-1-201 (10)
15	"Regularly"	section 5-1-301 (37)
16	"Residence"	section 5-1-201 (6)
17	"Revolving credit"	section 5-1-301 (38)
18	"Sale of goods"	section 5-1-301 (39)
19	"Sale of an interest in land"	section 5-1-301 (40)
20	"Sale of services"	section 5-1-301 (41)
21	"Seller"	section 5-1-301 (42)
22	"Seller credit card"	section 5-1-301 (43)
23	"Services"	section 5-1-301 (44)
24	"Supervised financial	
25	organization"	section 5-1-301 (45)
26	"Supervised lender"	section 5-1-301 (46)
27	"Supervised loan"	section 5-1-301 (47)

1 "Written" or "In writing" section 5-1-301 (48)

2 **SECTION 3.** 5-2-212, Colorado Revised Statutes, is amended to
3 read:

4 **5-2-212. Surcharges on credit transactions - prohibition.**

5 (1) Except as otherwise provided in sections 24-19.5-103 (3) and
6 29-11.5-103 (3), C.R.S., no seller or lessor in any sales or lease
7 transaction or any company issuing credit, ~~or~~ charge, OR DEBIT cards may
8 impose a surcharge on a holder who elects to use a credit, ~~or~~ charge, OR
9 DEBIT card in lieu of payment by cash, check, or similar means, NOR
10 SHALL ANY FINANCIAL INSTITUTION OR CARD ISSUER IMPOSE A SURCHARGE
11 FOR THE USE OF A DEBIT CARD FOR AN AUTOMATED CASH WITHDRAWAL.
12 A TRANSACTION PROCESSING FEE SHALL BE ALLOWED BY THE OWNER OF
13 THE MACHINE AT THE TIME OF THE TRANSACTION. A surcharge is any
14 additional amount imposed at the time of the sales or lease transaction by
15 the merchant, seller, or lessor that increases the charge to the buyer or
16 lessee for the privilege of using a credit, ~~or~~ charge, OR DEBIT card. For
17 purposes of this section, charge card includes those cards pursuant to
18 which unpaid balances are payable on demand.

19 (2) A discount offered by a seller or lessor for the purpose of
20 inducing payment by cash, check, or other means not involving the use of
21 a seller or lender credit card OR DEBIT CARD shall not constitute a finance
22 charge if such discount is offered to all prospective buyers and its
23 availability is disclosed to all prospective buyers clearly and
24 conspicuously in accordance with regulations of the administrator.

25 **SECTION 4. Act subject to petition - effective date.** This act
26 shall take effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August

1 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part shall not take effect
5 unless approved by the people at the general election to be held in
6 November 2010 and shall take effect on the date of the official
7 declaration of the vote thereon by the governor.