

SENATE No. 129

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Rodrigues

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to credit and debit cards.

PETITION OF:

NAME:

Michael J. Rodrigues

DISTRICT/ADDRESS:

SENATE No. 129

By Mr. Rodrigues, a petition (accompanied by bill, Senate, No. 129) of Michael J. Rodrigues for legislation relative to credit and debit cards. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to credit and debit cards.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 140D of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by inserting after line 6 the following:— “Acquiring bank”,
3 a financial institution licensed to do business in this state providing merchant accounts.

4 Section 1 of chapter 140D of the General Laws, as appearing in the 2008 Official Edition,
5 is hereby amended by inserting after line 32 the following:— “Chargeback”, a credit or debit
6 card transaction that is either billed back to a merchant or deducted from a merchant’s account.

7 Section 1 of chapter 140D of the General Laws, as appearing in the 2008 Official Edition,
8 is hereby amended by inserting after line 68 the following:— “Debit Card”, (a) Any instrument
9 or device known as a debit card, electronic benefits transfer card or any other access instrument
10 or device, other than a check, that is signed by the holder or other authorized signatory on the
11 deposit account that draws monies from a deposit account in order to obtain money, goods,
12 services or anything else of value; (b) Any stored value card, smart card or other instrument or
13 device that enables a person to obtain goods, services or anything else of value through the use of

value stored on the instrument or device, and; (c) The number assigned to an instrument or device described in subdivision (a) or (b) of this paragraph even if the physical instrument or device is not used or presented.”

Section 1 of chapter 140D of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after line 73 the following:— “Financial Institution”, any bank, savings association, savings bank, credit union or industrial loan company.”

“Interchange fee”, the fee that an acquiring bank pays to an issuing bank when a cardholder uses a credit card or debit card as payment during a retail transaction.”

“Issuing bank”, a financial institution which issues credit cards to creditholders.”

Section 1 of chapter 140D of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after line 79 the following:— “Merchant account”, a bank account that allows a merchant to accept credit card or debit card payments.”

“Merchant”, a person or entity licensed to do business in Massachusetts which offers goods or services for sale in Massachusetts.”

SECTION 2. Section 8 of chapter 140D of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after paragraph (b) the following:— “(c) Whenever a contract authorizing a merchant to accept a credit card or debit card specifies that the merchant is bound by the rules of a financial institution, the contracting financial institution must:

(i) Give the merchant access in this state to a complete paper copy of the rules referenced in the contract, either individually or through an acquired bank;

(ii) Notify the merchant when a referenced rule has been changed or a new rule added prior to the effective date of the new or revised rule, and;

(iii) Provide a copy of the new or modified rule.

(d) A contract authorizing a merchant to accept a credit card must contain:

(i) The contracting financial institution's complete schedule of interchange fees, credit card and debit card transaction rates and any other fees that the financial institution charges to merchants, and;

(ii) An explanation of which rates apply to the merchant and the situations in which those rates apply.

(e) A contract authorizing a merchant to accept a credit card or debit card may not require a merchant to agree not to disclose the contracting financial institution's rules or rates as a condition of receiving access to the rules or rates.

Section 31 of chapter 140D of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after line 12 the following:—“(4) If an issuing bank or credit card company fails to give a merchant access to its rules or rates as required by SECTION 2 of this Act, then:

(i) The merchant shall not be liable for any chargeback or fees associated with its credit card or debit card transactions from the time the contract was executed until the rules and rates are provided, and;

(ii) The issuing bank or credit card company will be liable for a civil penalty of \$10,000 per charge levied prior to providing the rules.

56 (5) Any merchant whose rights under this Act have been violated may maintain a civil
57 action for damages or equitable relief as provided for in this section.”