

SENATE No. 642

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:	DISTRICT/ADDRESS:	
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>	
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>	<i>1/23/2019</i>

SENATE No. 642

By Mr. Rodrigues, a petition (accompanied by bill, Senate, No. 642) of Michael J. Rodrigues and Paul A. Schmid, III for legislation relative to credit and debit cards. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 576 OF 2017-2018.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

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 2016
2 Official Edition, is hereby amended by inserting after the definition of “Accepted credit card” the
3 following new definition:-

4 “Acquiring bank”, a financial institution licensed to do business in this state providing
5 merchant accounts.

6 SECTION 2. Said section 1 of said chapter 140D, as so appearing, is hereby amended by
7 inserting after the definition of “Card issuer” the following new definition:-

8 “Chargeback”, a credit or debit card transaction that is either billed back to a merchant or
9 deducted from a merchant’s account.

10 SECTION 3. Said section 1 of said chapter 140D, as so appearing, is hereby amended by
11 inserting after the definition of “Credit sale” the following new definition:-

12 “Debit Card”, (a) Any instrument or device known as a debit card, electronic benefits
13 transfer card or any other access instrument or device, other than a check, that is signed by the
14 holder or other authorized signatory on the deposit account that draws monies from a deposit
15 account in order to obtain money, goods, services or anything else of value; (b) Any stored value
16 card, smart card or other instrument or device that enables a person to obtain goods, services or
17 anything else of value through the use of value stored on the instrument or device, and; (c) The
18 number assigned to an instrument or device described in subdivision (a) or (b) of this paragraph
19 even if the physical instrument or device is not used or presented.”

20 SECTION 4. Said section 1 of said chapter 140D, as so appearing, is hereby amended by
21 inserting after the definition of “Dwelling” the following new definitions:-

22 “Financial Institution”, any bank, savings association, savings bank, credit union or
23 industrial loan company.”

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

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

27 SECTION 5. Said section 1 of said chapter 140D, as so appearing, is hereby amended by
28 inserting after the definition of “Material disclosure” the following new definitions:-

29 “Merchant account”, a bank account that allows a merchant to accept credit card or debit
30 card payments.”

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

33 SECTION 6. Section 8 of said chapter 140D, as appearing in the 2016 Official Edition,
34 is hereby amended by inserting after subsection (b) the following new subsection:-

35 “(c) Whenever a contract authorizing a merchant to accept a credit card or debit card
36 specifies that the merchant is bound by the rules of a financial institution, the contracting
37 financial institution must:

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

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

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

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

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

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

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

52 SECTION 7. Section 31 of said chapter 140D, as appearing in the 2016 Official Edition,
53 is hereby amended by inserting at the end thereof the following new clause:-

54 “(4) If an issuing bank or credit card company fails to give a merchant access to its rules
55 or rates as required by subsection (c) of section 6 of this chapter, then:

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

59 (ii) The issuing bank or credit card company will be liable for a civil penalty of
60 \$10,000 per charge levied prior to providing the rules.

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