

HOUSE No. 3779

The Commonwealth of Massachusetts

PRESENTED BY:

Danielle W. Gregoire

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 card processors.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|-------------------------------|----------------------|------------------|
| <i>Danielle W. Gregoire</i> | <i>4th Middlesex</i> | <i>2/18/2021</i> |
| <i>Susan Williams Gifford</i> | <i>2nd Plymouth</i> | <i>2/26/2021</i> |

HOUSE No. 3779

By Miss Gregoire of Marlborough, a petition (accompanied by bill, House, No. 3779) of Danielle W. Gregoire and Susan Williams Gifford relative to credit card processors. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to credit card processors.

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 2018
2 Official Edition, is hereby amended by inserting after the definition of “Credit card”, the
3 following definition:-

4 “Credit card processor”, a person that processes credit card or electronic commerce
5 transactions on behalf of an organization for a fee, including a merchant services provider;
6 financial institution; independent sales organization; or any subsidiary or affiliate of a merchant
7 services provider, financial institution or independent sales organization.

8 SECTION 2. Said section 1 of said chapter 140D, as so appearing, is hereby further
9 amended by inserting after the definition of “Material disclosure”, the following definition:-

10 “Merchant processing agreement” means a contract between a credit card processor and
11 an organization under which the organization agrees to pay the credit card processor for
12 processing credit card or electronic commerce transactions on behalf of the organization.

13 SECTION 3. Said chapter 140D is hereby further amended by adding the following
14 section:-

15 Section 37. (a) A merchant processing agreement shall disclose clearly and conspicuously
16 in bold, 12 point font the following information: (1) the amount of any early termination fee,
17 fine, penalty or liquidated damages that may be assessed by the credit card processor for
18 termination of a merchant processing agreement before the expiration of the initial term; (2) the
19 expiration date of the merchant processing agreement; (3) the renewal date of the merchant
20 processing agreement; and (4) the customer service contact information of the credit card
21 processor, including telephone number, mailing address and e-mail address. This information
22 shall be provided on the signature page of a merchant processing agreement and shall be
23 acknowledged separately by the organization by initial of the signatory.

24 (b) The credit card processor shall provide a copy of the merchant processing agreement
25 in electronic or paper form to the organization at the time the organization signs the merchant
26 processing agreement.

27 (c) If an organization cancels a merchant processing agreement before the expiration of
28 the initial term agreed to by the credit card processor and the organization, the credit card
29 processor shall not assess or charge a fee, fine or penalty that exceeds \$500. If an organization
30 terminates the merchant processing agreement after the expiration of the initial term agreed to by
31 a credit card processor and an organization, the credit card processor shall not assess a fee, fine
32 or penalty, unless a credit card processor and an organization have entered into a separate
33 renewal merchant processing agreement.

34 This section shall not apply to a merchant processing agreement between a credit card
35 processor and an organization if: (i) the agreement may be terminated without assessment of
36 fees, fines, penalties or liquidated damages; or (ii) at the time of entry into the merchant
37 processing agreement, the organization employs 50 or more employees or reasonably estimates
38 that it will generate more than \$5,000,000 in credit card or electronic commerce transactions
39 each year.

40 (e) The commissioner shall implement and enforce this section.

41 SECTION 4. Section 37 of chapter 140D of the General Laws shall apply to merchant
42 processing agreements, as defined in section 1 of said chapter 140D, entered into or renewed on
43 or after the effective date of this act.

44 SECTION 5. This act shall take effect 180 days from its passage.