

SB 520_ Sen. McCray Testimony.pdf

Uploaded by: Destiny Bell

Position: FAV

CORY V. MCCRAY
Legislative District 45
Baltimore City

DEPUTY MAJORITY WHIP

Budget and Taxation Committee

Subcommittees

Chair, Health and Human Services

Vice Chair, Capital Budget

Executive Nominations Committee

Legislative Policy Committee

Joint Committee on Gaming Oversight



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Vote Yes on Senate Bill 520

Bill Title: Consumer Protection – Credit or Debit Card Surcharges - Limitation
Finance Committee
Hearing Date: February 14, 2024

Dear Chair, Vice Chair, and Members of the Committee,

I am writing to request your support for Senate Bill 520 (Consumer Protection – Credit or Debit Card Surcharges - Limitation). This bill aims to protect consumers from unfair practices or surcharges some retailers impose for using credit or debit cards. **SB520** is critical in promoting transparency and fairness between the consumer and the retailer in our great state of Maryland.

Currently, some retail businesses impose a surcharge on the consumer for using a credit card that exceeds the business's cost for processing the card transaction. These charges can burden the consumer, especially those on a fixed income. Under **SB520**, this unfair practice would stop while promoting transparency in pricing across the state. This legislation aligns with the laws of the Consumer Protection Act that guard buyers from unfair trade practices that could harm them.¹ Designating violations of this legislation as unfair, abusive, or deceptive trade practices subject to enforcement and penalties sends a strong message to the retailers and businesses who engage in this practice that our state will not tolerate this behavior.

In closing, **SB520** represents a significant step in the right direction in safeguarding the interest of the consumer against these acts while promoting fair trade across the entire state. For these reasons, I urge you, especially those who are consumers, to support this bill for your protection, if not for anyone else.

Respectfully,

A handwritten signature in blue ink, appearing to read "Cory V. McCray".

Cory V. McCray
45th District

¹ Waller, Spencer Weber and Brady, Jillian G., Acosta, R.J., and Fair, Jennifer and Morse, Jacob, Consumer Protection in the United States: An Overview (January 12, 2011). European Journal of Consumer Law, May 2011, Available at SSRN: <https://ssrn.com/abstract=1000226>

testimony2024sb520ltr.pdf

Uploaded by: Franz Schneiderman

Position: FAV



Auto Consumer Alliance
13900 Laurel Lakes Avenue, Suite 100
Laurel, MD 20707

Testimony to the Senate Finance Committee
SB 520– Consumer Protection – Credit or Debt Surcharges -- Limitation
Position: Favorable

The Honorable Pam Beidle
Senate Finance Committee
3 East, Miller Senate Building
Annapolis, MD 21401
cc: Members, Senate Finance Committee

Feb. 14, 2024

Honorable Chair Beidle and Members of the Committee:

I'm a consumer advocate and Executive Director of Consumer Auto, a nonprofit group that works to protect Maryland consumers and secure safety, transparency and fair treatment for Maryland drivers and car buyers.

We support **SB 520** because it mandates sensible limits on surcharges for the use of the credit cards many consumers now rely on and protects us against abusive extra credit card fees.

While cash was once king, credit cards are now basic to the way most consumers spend their money. 84% of consumers had a credit card in 2021, including 94% of consumers with incomes more than \$50,000/year.¹ Indeed consumers are routinely advised that making purchases by credit is the smart choice: that credit cards are safer than carrying cash, help you build credit and track your spending, come with protections against fraud you don't get if you use cash or a debit card, and can help you earn valuable rewards or rebates for your routine spending.²

As online shopping boomed and cash became harder to access during the pandemic, more and more of started using credit cards to pay for most of our expenses – and indeed many younger people barely use cash at all.

At the same time, it has also grown increasingly common for merchants to charge us extra fees for using credit. In a 2023 Lending Tree survey, 69% of credit card users reported being charged extra fees – and 32% said they had not been notified of those fees in advance.³ New credit card fees are especially conspicuous in the restaurant industry– so much so that the *New York Times* last August chose to highlight that trend in a feature piece citing restaurants charging “convenience fees” of up to 5% for credit card use.⁴

To be fair, the use of credit does cause additional costs for retailers and restaurants – with credit card firms charging vendors fees up to 4% of the transaction (and usually 1.5% to 3.5%) for a

¹ <https://www.forbes.com/advisor/credit-cards/credit-card-statistics/>

² <https://www.nerdwallet.com/article/credit-cards/why-every-purchase-should-be-on-a-credit-card>

³ <https://www.lendingtree.com/credit-cards/study/processing-fees/>

⁴ <https://www.nytimes.com/2023/08/14/dining/restaurant-credit-card-fees.html>



Auto Consumer Alliance
13900 Laurel Lakes Avenue, Suite 100
Laurel, MD 20707

credit card charge. Surcharges in response to those costs have been legal in Maryland since 2013 – and appear also to have grown more common here in recent years.

But the fees do impose additional burdens on cash-strapped consumers who rely on credit. Lending Tree's survey found that 57% of consumers thought those fees should be illegal.⁵ And many states have acted to prohibit or restrict them. Connecticut, Massachusetts, and Puerto Rico have banned such surcharges altogether. Seven other states have rules on the books that do so but those rules are now tied up in legal disputes.⁶

Indeed just last week, a new law in New York State took effect that not only limits such surcharges to the amount the credit card company actually charges the retailers for the transaction – just as **SB 520** would do in Maryland – but requires merchants to display credit card surcharges in the prices they show consumers before they make a purchase (i.e. at a retail store or on a menu).⁷

SB 520 does not prohibit surcharges (or even mandate such price disclosures) but reasonably limits them to no more than the fees the credit card companies charge retailers. That allows merchants who feel they need to do so to recover the costs of those fees but protects consumers against excessive or highly expensive extra credit card fees. And that works quite reasonably, I think, to address the needs of both consumers and small businesses.

We support SB 520 and ask you to give it a FAVORABLE report.

Sincerely,

Franz Schneiderman
Consumer Auto

⁵ <https://www.lendingtree.com/credit-cards/study/processing-fees/>

⁶ <https://www.paystand.com/blog/passing-credit-card-fees-to-customers-a-state-by-state-guide>

⁷ <https://www.cbsnews.com/newyork/news/credit-card-fees-surcharge-new-york-businesses-restaurants-prices/>

OAG-CPD Written Testimony SB 520 (SUPPORT) DRAFT.p

Uploaded by: Steven M. Sakamoto-Wengel

Position: FAV

CANDACE McLAREN LANHAM
Chief Deputy Attorney General

CAROLYN A. QUATTROCKI
Deputy Attorney General

LEONARD J. HOWIE III
Deputy Attorney General

CHRISTIAN E. BARRERA
Chief Operating Officer

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PETER V. BERNS
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Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

WILLIAM D. GRUHN
Chief
Consumer Protection Division

Writer's Direct Dial No.
(410) 576-6307

February 14, 2024

TO: The Honorable Pamela Beidle
Chair, Finance Committee

FROM: Steven M. Sakamoto-Wengel
Consumer Protection Counsel for Regulation, Legislation and Policy

RE: Senate Bill 520 – Consumer Protection - Credit or Debit Card Surcharges -
Limitation (**Support**)

The Consumer Protection Division of the Office of the Attorney General supports Senate Bill 520, sponsored by Senator McCray, which would prohibit retail businesses from charging consumers surcharges for credit or debit card transactions that exceed the amount of the processing fees charged to the business. Senate Bill 520 is consistent with Maryland's efforts to protect consumers from having to pay junk fees and other excessive charges.

The Division receives complaints from consumers regarding surcharges charged by retailers for payment by credit card, even though the substantial majority of purchases are by credit or debit card. Although the Division understands that retailers are charged "swipe" fees for accepting credit or debit card payments, if the business elects to pass those costs onto consumers instead of treating such fees as overhead, the business should not be profiting from the surcharges.

Regardless of whether the amount of any surcharge exceeds the swipe fees charged to the retailer, any such surcharges and the amount must be disclosed to the consumer prior to the transaction. We believe this bill strikes a fair balance between retailers and consumers by allowing retailers to recoup the cost charged to them by credit card companies while protecting consumers from excessive fees.

Senate Bill 520 would prohibit retailers from profiting off excessive credit card processing fees at the expense of consumers. Accordingly, we urge the Finance Committee to issue a favorable report on SB 520.

cc: The Honorable Cory McCray
Members, Finance Committee

2024 MD Surcharging Tesimony - American Express.pd

Uploaded by: Vicki Harris

Position: FWA

**AMERICAN EXPRESS TESTIMONY ON SB 520
MARYLAND GENERAL ASSEMBLY
SENATE COMMITTEE ON FINANCE
FEBRUARY 13, 2024**

American Express appreciates this opportunity to comment on SB 520.

Credit card surcharging is on the rise in the U.S. This changing environment calls for policymakers to place guardrails in statute to protect individuals, small businesses, and governmental entities alike from unfair conduct in the marketplace.

SB 520 has the opportunity to provide important consumer protection to Maryland customers in two respects: one by ensuring customers are afforded clear notice of the surcharge and two by limiting the surcharge percentage. American Express urges this committee to adopt amendments in these areas to strengthen the bill for the benefit of Marylanders.

Turning first to advance notice. Customers and retailers would benefit from an advance notice requirement that specifies clear and conspicuous notice must be provided to customers at the point of entry and point of sale for in-person transactions, on the home page and point of sale webpage for online transactions, as well as a requirement for advance notice in over the phone transactions. Requiring price transparency by law avoids surprise fees which are harmful to customers and ensures meaningful authorization of transactions which protects both customers and retailers alike.

Placing a reasonable cap on the surcharge percentage is also important as a consumer protection measure. SB 520 steps in this direction by limiting the surcharge percentage to the amount the retailer is charged for processing the transaction. However American Express urges this committee to go further and adopt the cost of transaction or 2%, whichever is less, as the appropriate surcharge cap. Consumers rely on credit for business, personal and emergency expenses. Surcharging exposes consumers to added transaction costs for routine gasoline purchases to more costly expenses such as car repair, medical care, childcare, or housing. For small business owners, many of which rely on commercial credit cards to run their businesses, surcharging can be impactful to the bottom line. Governmental entities may also see impact from surcharging through employee use of credit cards to carry out business related functions.

All forms of payment, cash, check and debit, carry a cost of acceptance to the retailer. Retailers benefit from credit transactions through higher purchase values, increased security, lower transaction risks, and avoided costs of cash transactions. Credit card users should not be singled out as the only payers to cover the retailer's full transaction cost. Capping credit card surcharges at the lesser of the cost of transaction or 2%, which is a rate that approximates the average cost of accepting credit card transactions over and above transactions using other forms of payment, allows merchants to recoup that average added cost of credit card acceptance while providing reasonable and necessary protection for consumers against excessive fees.

American Express appreciates your consideration of these comments and respectfully requests that you act favorably on its proposed amendments should you decide to move this measure forward.

2024 GBCC SB 520 Business surcharges.pdf

Uploaded by: Ashlie Bagwell

Position: UNF



Testimony on behalf of the Greater Bethesda Chamber of Commerce

*In Opposition to
Senate Bill 520—Consumer Protection-Credit or Debit Card Surcharges-Limitation*

*February 14, 2024
Senate Finance Committee*

The Greater Bethesda Chamber of Commerce (GBCC) was founded in 1926. Since then, the organization has grown to more than 550 businesses located throughout the Greater Bethesda area and beyond. On behalf of these members, we appreciate the opportunity to provide written comments on Senate Bill 520—Consumer Protection-Credit or Debit Card Surcharges-Limitation.

Senate Bill 520 prohibits a retail business in the State from charging a consumer a surcharge for the use of a credit card or debit card for payment in excess of the amount that the retail business is charged for processing the transaction. While we believe this legislation is ultimately unworkable, we also believe it is unnecessary. Processors can adjust or create new interchange rates two times a year (in April and in October), while banks can change their interchange rates throughout the year (though they also try to stick to April and October). Keeping up with this fluid market of interchange rates makes it virtually impossible for a retail business or a POS company to keep up. In addition, every credit card has a different surcharge, with fees often varying depending on the way the credit card is used (in-person, over the phone, online). Under this bill, if a vendor chooses to charge a surcharge, it could result in the need to change the surcharge on a daily basis and on a customer-by-customer basis. To make matters more confusing, vendors don't often know what surcharge a card has charged until they receive the invoice at the end of the month, after the transaction has already occurred. Even then, monthly invoices often include only an aggregate amount, making it difficult to ascertain the amount of each individual transaction fee.

It is important to remember that Maryland already caps surcharge fees. If a Maryland business chooses to impose one, they are capped at 4 percent. We believe this is a reasonable cap, giving the business flexibility to establish a surcharge that, on average, allows them to recoup the amount they are charged for processing all transactions.

For these reasons, we would respectfully request an unfavorable vote on Senate Bill 520.

SB 520.pdf

Uploaded by: Kirk McCauley

Position: UNF



WMDA/CAR Service Station
and Automotive Repair Association

February 1, 2024

Chair: Melony Griffith
Members of Senate Finance Committee

RE: SB 520 Consumer Protection – Credit or Debit Card Surcharges – Limitation

Position: Oppose

My name is Kirk McCauley, my employer is WMDA/CAR, as a trade association we represent service stations, convenience stores and repair facilities across the state.

Visa, Mastercard, American Express, Discover have different fees depending on type of card, amount of purchase, and bank that issues card and who is processing payment. Separating it by card at purchase would be nearly impossible and time consuming.

Please give SB 520 an unfavorable report

Kirk McCauley, 301-775-0221 or kmccauley@wmda.net

SB520_RestaurantAssoc_Thompson_UNFAVORABLE.pdf

Uploaded by: Melvin Thompson

Position: UNF



Senate Bill 520

Consumer Protection - Credit or Debit Card Surcharges - Limitation

February 14, 2024

POSITION: Oppose

Madame Chair and Members of the Senate Finance Committee:

The Restaurant Association of Maryland opposes Senate Bill 520 because the proposed surcharge limitation is not practicable as drafted. In addition to retail businesses specified in the bill, we believe this legislation also applies to restaurants, which are engaged in the retail sale of prepared food and beverages to end consumers.

Businesses that opt to impose credit card surcharges generally determine the surcharge percentage based on card brand rules and limitations. It cannot be done based on the processing fee for each specific card presented by the customer for reasons explained below.

Card swipe fees have become a significant expense for businesses in recent years as more customers shift away from using cash. Card swipe fees in the United States have more than doubled over the past decade, according to data from [Nilson Report](#). For these reasons, many businesses have imposed credit card surcharges to help cover rising credit card processing costs. Businesses that opt to impose such surcharges do so to avoid adding this cost to product pricing because higher prices can result in reduced sales overall.

A lack of competition in the credit card network routing market, which is dominated by two credit card networks (Visa and MasterCard), has contributed to rising card swipe fees. For this reason, [the Credit Card Competition Act](#) has been introduced in Congress to enhance competition in the credit card network routing market and drive down swipe fees that businesses pay.

We sought feedback on SB 520 from a credit card processor and learned that there are many complicated factors that determine card processing fees paid by businesses. This includes countless and constantly changing bank interchange fees as well as fees charged by credit card processors. Bank interchange fees are a major driver of payment card processing fees that businesses pay.

These fees vary by card brand (Visa, MasterCard, Amex, Discover), type of card (rewards, cash back, travel, business card, international, gold, silver, platinum, etc.), type of business where the card is used (retail store, restaurant, caterer, mail order/internet, etc.), transaction amount, transaction method, numerous pricing tiers, etc. And card swipe fees can also change by day.

(more)

There are card brand rules and surcharge limitations that businesses have to abide by if they choose to impose surcharges. And surcharges can be imposed only for credit cards (not for debit cards or pre-paid cards). In general, a surcharge cannot exceed 4 percent.

For all the reasons explained above, we oppose SB 520 and request an unfavorable report.

Sincerely,

A handwritten signature in black ink that reads "Melvin R. Thompson". The signature is written in a cursive style and ends with a long, sweeping horizontal line that extends to the right.

Melvin R. Thompson
Senior Vice President