

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.