

**Introduced by Senator Blakeslee**

February 24, 2012

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An act to amend Section 1748.1 of the Civil Code, relating to credit cards.

LEGISLATIVE COUNSEL'S DIGEST

SB 1334, as introduced, Blakeslee. Credit cards.

The Song-Beverly Credit Card Act of 1971 generally regulates credit card transactions. That law prohibits a retailer in any sales, service, or lease transaction with a consumer imposing a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means. Existing law further provides that any retailer who willfully violates this prohibition by imposing a surcharge on a cardholder who elects to use a credit card and who fails to pay that amount to the cardholder within 30 days of a written demand by the cardholder to the retailer by certified mail, shall be liable to the cardholder for 3 times the amount at which actual damages are assessed.

This bill would make a technical, nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1748.1 of the Civil Code is amended to  
2 read:  
3 1748.1. (a) No retailer in any sales, service, or lease transaction  
4 with a consumer may impose a surcharge on a cardholder who  
5 elects to use a credit card in lieu of payment by cash, check, or

1 similar means. A retailer may, however, offer discounts for the  
2 purpose of inducing payment by cash, check, or other means not  
3 involving the use of a credit card, provided that the discount is  
4 offered to all prospective buyers.

5 (b) ~~Any~~ Every retailer who willfully violates this section by  
6 imposing a surcharge on a cardholder who elects to use a credit  
7 card and who fails to pay that amount to the cardholder within 30  
8 days of a written demand by the cardholder to the retailer by  
9 certified mail, shall be liable to the cardholder for three times the  
10 amount at which actual damages are assessed. The cardholder shall  
11 also be entitled to recover reasonable attorney’s fees and costs  
12 incurred in the action.

13 A cause of action under this section may be brought in small  
14 claims court, if it does not exceed the jurisdiction of that court, or  
15 in any other appropriate court.

16 (c) A consumer shall not be deemed to have elected to use a  
17 credit card in lieu of another means of payment for purposes of  
18 this section in a transaction with a retailer if only credit cards are  
19 accepted by that retailer in payment for an order made by a  
20 consumer over a telephone, and only cash is accepted at a public  
21 store or other facility of the same retailer.

22 (d) Charges for third-party credit card guarantee services, when  
23 added to the price charged by the retailer if cash were to be paid,  
24 shall be deemed surcharges for purposes of this section even if  
25 they are payable directly to the third party or are charged  
26 separately.

27 (e) It is the intent of the Legislature to promote the effective  
28 operation of the free market and protect consumers from deceptive  
29 price increases for goods and services by prohibiting credit card  
30 surcharges and encouraging the availability of discounts by those  
31 retailers who wish to offer a lower price for goods and services  
32 purchased by some form of payment other than credit card.

33 (f) This section does not apply to charges for payment by credit  
34 card or debit card that are made by an electrical, gas, or water  
35 corporation and approved by the Public Utilities Commission  
36 pursuant to Section 755 of the Public Utilities Code.