

Legislative History for Connecticut Act

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HB 5961	PA 222 . FAX	1986
House	2419-2421	(3)
Senate	2558-2569	(12)
Banks	48-49, 79-80	(4)
		Total 19p

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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

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ktc

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House of Representatives

Thursday, April 17, 1986

SPEAKER VAN NORSTRAND:

Rep. Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. May this item be referred to the Committee on Judiciary.

SPEAKER VAN NORSTRAND:

The motion is to refer Calendar item 365 to the Committee on Judiciary. Is there objection? Seeing none, the matter is so referred.

CLERK:

Calendar 366, Substitute for House Bill 5961, File No. 386, AN ACT CONCERNING CREDIT CARD SURCHARGES AND ACCEPTANCE OF BANK CREDIT CARDS. Favorable Report of the Committee on Banks.

REP. PATTON: (119th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Gerard Patton.

REP. PATTON: (119th)

Mr. Speaker, I move for acceptance of the Joint Committee's Favorable Report and passage of the bill.

SPEAKER VAN NORSTRAND:

The question is on acceptance and passage. Will you remark?

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REP. PATTON: (119th)

Mr. Speaker, this bill will prohibit a seller from imposing a surcharge on a buyer who pays for his purchase with a credit card. The bill also requires that any seller accepting a bank credit card such as a VISA or a MasterCard to accept any card of that type regardless of which bank issued the card. I move for acceptance of the bill, Mr. Speaker.

SPEAKER VAN NORSTRAND:

The question is on acceptance and passage. Will you remark? Will you remark? If not, staff and guests please come to the Well of the House. The machine will be opened. The Clerk please announce the pendency of a roll call vote.

CLERK:

The House of Representatives is now voting by roll.  
Will all members please return to the Chamber. The House of Representatives is now voting by roll call. Will all members please return to the Chamber immediately.

SPEAKER VAN NORSTRAND:

Have all the members voted? Have all the members voted? If so, the machine will be locked and the Clerk will please take a tally.

Will the Clerk please announce the tally.

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Thursday, April 17, 1986

CLERK:

House Bill 5961.

Total number voting 148

Necessary for passage 75

Those voting yea 144

Those voting nay 4

Those absent and not voting 3

SPEAKER VAN NORSTRAND:

The bill is passed.

CLERK:

Page 10, Calendar No. 367, Substitute for House Bill 6049, File No. 387, AN ACT CONCERNING THE AUTHORIZATION OF PENSION FUNDS FOR VOLUNTEER FIREFIGHTERS. Favorable Report of the Committee on Government Administration and Elections.

REP. KRAWIECKI: (78th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Edward C. Krawiecki, Jr.

REP. KRAWIECKI: (78th)

May this item be recommitted to the Committee on Government Administration and Elections please.

SPEAKER VAN NORSTRAND:

The motion is to recommit Calendar item 367 to the

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lived with and that is the respective committees, public safety, public health, Environment and so on, that sets substantive measures and therefore fees, send on to us, fees, permits, license measures that in effect are set very literally in a vacuum in a Committee that has no real idea of the context within which the families of fees are set. We would examine this throughout all of the major departments that set fees in an attempt to present some uniformity so that the Finance Committee in the future, can deal in some kind of uniform manner with fees.

I would urge adoption of the Bill as amended. If there is no objection, I would move this to the Consent Calendar.

THE CHAIR:

Hearing none, so ordered.

THE CLERK:

Page 4, Calendar 410, File 386, Substitute for House Bill 5961, AN ACT CONCERNING CREDIT CARD SURCHARGES AND ACCEPTANCE OF BANK CREDIT CARDS, Favorable Report of the Committee on Banks.

THE CHAIR:

Senator Eaton. Page 4, Senator Eaton, first item.

SENATOR EATON:

Thank you Mr. President. I move the Committee's Joint Favorable Report and passage of the Bill.

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THE CHAIR:

Will you remark?

SENATOR EATON:

This Bill, Mr. President, members of the Circle, is composed of two parts; the first part would provide that when presenting a credit card for payment, that a surcharge cannot be added to the price of the goods, a meal for example, when you go to pay.

So that if you're sitting in a restaurant, you've ordered dinner--as happened firsthand experience with the co-chairman of the Banking Committee, by the way. The waiter or waitress or host at the end of the meal, can't then add an additional price cost onto the price of the meal simply because you have paid by credit card.

The Bill provides that the host, the retailer, does not have to accept a credit card if he or she chooses not to and notifies the customer of that internal rule. The second part provides that if you have a Master Charge or a Visa sign posted and you say that you accept a Master Charge or Visa card, you will accept a Master Card or a Visa issued by any institution. Again, from not personal experience, but experiences referred to the Committee, this would prevent a situation in which a customer goes into an establishment, goes up to pay for service or goods acquired and is told, oh, we don't take that credit card, that Visa card. We will

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only accept this credit card. That happens in some instances where the business has a special in-house relationship with a particular issuer, usually out of state, by the way, and usually with vastly higher interest rates than are allowed in Connecticut even now under 18 percent and usually when there is a kick-back, commission, made payable to that particular company after the transaction is rendered.

What we have here is good consumer legislation. It is not a mandate in that it is simply protective. It gives the consumer a choice and also I think with regard to the second part, there's an element of truth in advertising accompanying it. Mr. President, if there is no objection, I would move this to the Consent Calendar.

THE CHAIR:

Senator Morano.

SENATOR MORANO:

Mr. President, question through you to the gentleman bringing out the Bill, Senator Eaton. Senator Eaton, if a restaurant has posted on its doors, American Express, Master Card, Visa, whatever--Diner's Club, and you walk in to sit down and they tell you that it's cash only, no credit cards accepted, would your Bill address that?

SENATOR EATON:

Yes, through you Mr. President. Yes, Senator, it addresses that specifically and we've made it as convenient as possible

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for both the restaurant and the patron in that that notice can be given verbally or in writing, whichever is appropriate so, for example, it might be on the menu which is in some cases and on some menus as you know, it says credit cards accepted. Well, it could just as easily say credit cards accepted under these circumstances. So it can be done that way, or, in the case where there's a waiter or a waitress, that person can indicate to the patron that credit cards are accepted only on purchases of X number of dollars or more.

THE CHAIR:

Senator Morano.

SENATOR MORANO:

Mr. President, another question to Senator Eaton. If you walk into the restaurant and they tell you that they will not accept credit cards in a dining room but they provide another dining room to accept a credit card, will that circumvent your Bill?

SENATOR EATON :

I'm sorry, Mr. President. I couldn't hear the question.

THE CHAIR:

Would you restate the question please?

SENATOR MORANO:

I'll make it simpler. There are two dining rooms in the restaurant. If you walk in and you are going in to eat

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naturally and you walk towards the dining room of your choice, and they say no credit cards accepted here; we do accept them in the other dining room, would that be legit?

THE CHAIR:

Senator Eaton. He's talking about two dining rooms.

SENATOR EATON:

I understand that Mr. President, thank you, and again through you, perhaps--through you Mr. President, a question returned to help clarify my understanding of what you're trying to ask, Senator Morano. Would those dining rooms be owned and operated by the same business?

SENATOR MORANO:

Yes Mr. President.

THE CHAIR:

Senator Eaton.

SENATOR EATON:

And the question again, through you Mr. President, is would they have to accept or not accept credit cards?

SENATOR MORANO:

Question through you Mr. President, is under your Bill would they have to accept a credit card no matter which side dining room you chose?

SENATOR EATON:

Okay. Thank you. Mr. President, again through you, the issue here is not of acceptance or rejection of credit cards.

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The issue here is the imposition of a surcharge on credit cards for credit card purposes so that the consumer ends up spending sometimes considerably more in the case of Representative Patton and I in our little experiment who increased the cost of our purchase by 12 percent.

And so I think the answer to your question as I understand it, Senator Morano, is that if there were two separate dining rooms in the same business, then that would certainly not be an issue and, if I understand the question correctly, and I think I now do, that doesn't apply in any event.

SENATOR MORANO:

Thank you Mr. President.

THE CHAIR:

Further remarks? Senator Schoolcraft.

SENATOR SCHOOLCRAFT:

Yes sir, Mr. President, through you to Senator Eaton. Senator, I have a few questions probably. Number one, was there any evidence or testimony in your Committee that certain businesses would say to the customer that we accept Visa or Master Charge but it must be on this particular bank? Was that any evidence, any testimony to this?

THE CHAIR:

Senator Eaton.

SENATOR EATON:

Yes Mr. President, through you, yes there was and in fact

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in this instance, this is interesting and if I may, parenthetically say that I think one of the wonderful things about the General Assembly is that it's members bring their experiences here and often contribute to better public service because they come as members of the general public and indeed, a member of the Majority in the House spoke specifically to this legislation and indicated the reason to the Committee and, first initially to our caucus, for it, having been through a specific experience.

SENATOR SCHOOLCRAFT:

Mr. President, through you to Senator Eaton.

THE CHAIR:

Senator Schoolcraft;

SENATOR SCHOOLCRAFT:

Senator Eaton, I think I pretty well travelled the world in my years in the Navy and since then and I have yet to ever be anywhere where I have even heard a customer next to me or myself say, and you may not use this credit card but only on our local bank. I do not know of any, for instance, that a bank kicks back to a person for credit cards. My experience has been that the bank charges about four and a half percent for the use of that credit card.

Now, rather than go through, President, I'll continue in this line. What do you do when a customer walks in, has a meal, throws out his credit card and says I have no money?

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Question one. You must accept a credit card. Number two, that business out there, cash money, he deposits in his bank today. He gets credit for today. Credit cards take awhile, like checks do, to go through the system before your account is credited.

That's two for instances there. I have to tell you, I will object to this and one other question, through you Mr. President. If a business posts a sign saying surcharge will be added to a credit card, is that permissible, under your--

THE CHAIR:

Senator Eaton.

SENATOR EATON:

Yes Mr. President, through you, we've had actually a number of questions and before--

SENATOR SCHOOLCRAFT:

Take the last one first.

SENATOR EATON:

--we go on to too many others, I'd like to deal with those.

THE CHAIR:

Deal with them in any priority you want.

SENATOR EATON:

The legislation states that there shall be no surcharge period. And the reason for that is as you pointed out so aptly, Senator, this is as much a credit card society, used as a vehicle of convenience as it is a cash society. In fact,

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in many instances, it's moreso. So if we impose additional costs on somebody for using what is really today's alternative to cash, we are actually committing a consumer malfeasance, I think.

With regard to the earlier questions raised and I think many people in this Circle travel far and wide, but perhaps they have not gotten to the Naugatuck Valley where in fact, this particular experience occurred and where the bearer's credit card--in fact it happened to be Visa--was rejected because it was not from the approved issuer's lending institution. Now, I would have to explain, Senator, to the best of my knowledge, you were exactly right with regard to Connecticut banks and Connecticut credit card issuers.

However, if you've been--and as I learn more and more in this position, the--all institutions are not equal; all are not as honorable and well run as those in Connecticut and not all are free and independent. Some of them may in fact be owned and operated by major and international corporations from long far away from Connecticut who have, in order to control the market and in fact, if you want to get into this, create what may constitute a serious anti-trust violation then indeed, then indeed, that problem does exist.

And indeed, there are exchanges of premiums--that means money--between the lender and the business institution, particularly when it's owned by an out of state corporation as

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in the case here.

SENATOR SCHOOLCRAFT:

Mr. President, one final question through you to Senator Eaton.

THE CHAIR:

Senator Schoolcraft, you may proceed.

SENATOR SCHOOLCRAFT:

Yes sir, Mr. President--Senator Eaton, the use of a credit card for the consumer today is to the benefit of the consumer. It allows them to purchase articles and avoid paying up front for the money. It is an instant credit operation. I think you are going to see, if this Bill is passed, you're going to see that more and more businesses will take down the sign that says we accept credit cards. I think we're only fooling ourselves in this particular case and frankly I don't know of any businesses around that put a surcharge, but I find that to have a business say I don't need this; I'm going to go cash only, that is the service to the holder, the consumer of that credit card.

If he knows there is a surcharge, he certainly can object and not purchase the article. Thank you.

THE CHAIR:

Senator Eaton.

SENATOR EATON:

Mr. President, thank you sir. I'm sorry. I'd simply like

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to add that perhaps we're reading something into this that doesn't exist. This does nothing to affect the bottom line of the lender or indeed the business. It simply primarily gives notice. It passed the Committee by a vote of 20 to 0 unanimously. Every member in this Circle who in fact voted for it, I think something's gone awry here in our understanding of the legislation and I strongly urge that it be passed. Thank you.

THE CHAIR:

Senator Giulietti.

SENATOR GIULIETTI:

Mr. President, as a member of the Banks Committee, I did vote for the Bill. I have no particular love for it. I personally see a lot of problems with it. I see a surcharge-- I see a credit card as a privilege; it's not a necessity and to stop a business from being able to put a surcharge if they want to, I really don't see any gains to that. I think Senator Schoolcraft brought up a lot of legitimate objections. I personally oppose the Bill. If a business has more expensive--if for some reason their credit rating should change or the credit card company decides they should charge them more money because they're not using enough credit a month, now they're stuck with their costs may have gone up for using their credit card but they cannot charge a surcharge so with the belief that a credit card is a privilege to use, not a

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necessity, I feel this Bill is unnecessary and I oppose it.

THE CHAIR:

Further remarks? Senator Eaton.

SENATOR EATON:

No Mr. President. Yes, just one. This has--this train has more cabooses on it than exist in the world. Nobody is charging anybody anything and with that I'd simply like to again move passage of the Bill.

THE CHAIR:

There's opposition; Clerk please make an announcement for an immediate Roll Call.

THE CLERK:

An immediate Roll Call has been ordered in the Senate.

Will all Senators please return to the chamber. An immediate Roll Call has been ordered in the Senate. Will all Senators please return to the chamber.

THE CHAIR:

Question before the chamber is a motion to adopt Calendar 410, Substitute for House Bill 5961, File 386. The machine is open. Please record your vote. Has everyone voted? The machine is closed. Clerk please tally the vote.

The result of the vote:

23 YEA

11 NAY

The Bill is adopted.

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REP. PATTON: Could I ask you a question about that?

MR. DUFFY: Yes.

REP. PATTON: Based on -- you are quite right about the tougher enforcement -- two weekends ago, I went to a retail store to purchase some goods, and at the cashier's station they told me that every single of their checks is bonded, that they go to an insurance company (inaudible) on that check against it being bad?

MR. DUFFY: Yes.

REP. PATTON: They also took the credit card for identification, they used that number to verify credibility, I guess. I don't know quite how that relates to the check, but what costs are involved with that and (inaudible).

MR. DUFFY: Yes, there are retailers who basically get insurance for checks they accept, and they pay a premium on that. I'm not sure what the cost of that is, but I will provide you with some information prior to your final consideration of this bill about those costs. As a condition of that insurance, rigorous identification processes are required by the retailers, and they communicate this to the clerks and clerks are required through this check identification process which is generally in some instances in the one you described a condition of this insurance. Absence insurance, it is a retailers have established because they know identification is the major problem.

REP. PATTON: So it is purely for identification purposes. They didn't somehow link my credit card to the payment process, for identification.

MR. DUFFY: Yeah, except there also is a process by which retailers can identify, not through your credit card, but through your check the credibility of the check, but in most instances the requirements for credit cards have to do with the identification process.

On HB 5961, the credit card surcharge bill, I don't have any strenuous objections to this although conceptually, I would like somebody to someday explain to me the

MR. DUFFY: (continued)

difference between a surcharge and a discount. I also don't know of anyone who really makes wide use of it. I have a couple of suggestions that I think would be important to clarify. First of all, I would want it to be clear that retailers, and particularly restaurants, would still be free to establish a minimum charge level at which they would accept a credit card. I think that is an important, it's a condition of the bank's acceptance of that account, and it affects the rate the merchant discount rate that the retailer pays to the bank for the ability to accept those credit cards, and so I would suggest, and I hope that while it may not be necessary, language be inserted in that bill to -- similar to the language in Section B, which shall nothing in the section shall prohibit any seller from requiring a minimum charge level.

Secondly, in part C, and again I am not an attorney, but I would suggest that rather than saying any seller who -- and I don't have any question about the substance of this section of what it is trying to do, but I just suggest that it might say instead of having language that would say any seller shall honor a bank credit card bearing such trade name that might say, "no seller can refuse to accept a bank credit card bearing such trade name simply because of the identity of the card issuer." So perhaps a minor point but one that you might consider.

In general I don't have any real questions with that aspect of -- or problems with that aspect of that bill.

Lastly, on HB 5978, again, I would express on behalf of our membership some strong concern with Section 5 of the bill, and points of clarification, perhaps. If this requirement means that every installment sales contract an additional piece of paper has to flow from the lender to the consumer, it adds significantly to the costs of these kinds of loans.

Section 5, a creditor shall mail to a consumer debtor a written notice of the imposition of any delinquency charge, late fee, or similar assessment, and any financial charge accrued as a result of a late payment on a note, mortgage or installment sales contract. I would be concerned that in addition, if an installment sales

MR. PODOLSKY: (continued)

business to bring small suits. A law suit for \$15 or \$50 or \$100 or even \$200, it is not worth it to go to court. The people who go to court are big businesses who have credit collection staffs to do this as part of their job in a routine way. The reality is you are not going to change that with this bill. The theoretical right to sue for extra damages is still not going to make it easier for a Mom and Pop grocery store for somebody to take time off from work and go down to Small Claims Court and sue.

The result is you are not going to see a significant increase use of this by small businesses. You will see perhaps Sears and J. C. Pennys and the major retail institutions taking advantage of this, but that -- if this bill at least when it was presented publically a number of months ago, was not presented as being primarily for their benefit. And I submit to you that is really where the benefits go by.

I didn't mean to go on quite that long on that one bill. There are a few other bills that I just want to make a few brief comments on, and then I will be done.

House Bill No. 5961, deals with credit card surcharges. I was pleased to see the bill now seems to have pretty much universal support. The problem with the credit card surcharge is that in effect you are charging double for credit. You are charging the person -- the person is already paying interest on the credit card and now he is going to pay an extra charge for the ability to use the credit card. Last year, I talked to the banking department about what impact this has on the true interest rate, whether you call it interest or not. If you have a dollar purchase and a 5 cent surcharge, so you are really paying \$1.05 and then you are paying 18% on that, it turns out that if you amortize that over 24 months, you are really paying 23% interest.

If you pay it off in 12 months, you are paying 27-1/2% interest, and if you pay it off in 6 months, you are really paying 35% interest. So what looks like 18% really becomes 35%. Whether that would be a violation of the Connecticut usury law or not, I don't know. I am sure that there are some of us who would argue that it is a violation of the usury law. But in any event, you solve

MR. PODOLSKY: (continued)

that problem when you say you can't do a credit card surcharge. It was illegal under federal law until 1984 and so it would be good for us to pick that up.

I do think that if you look at that bill, it has a sanction that has violation of crime. I think there -- I don't think the criminilization is the best way to go on that. I think you would be better off substituting the provision that violation is an unfair trade practice. Charlies Duffy in talking said that he was waiting for someone to tell him the difference between the credit card surcharge and the cash discount. Case discounts would not be prohibited.

They are similar. The reason that it is more important to deal with surcharges than discounts, I think is two-fold. First of all, the credit card surcharge is more likely to produce deceptive advertising. If you say my product costs a dollar and you bring people in to buy that for a dollar, then they find for them it is a \$1.05, you have brought them in with a misleading statement of the price. With the cash discount, you can say my product costs a dollar and they come in and discover it only costs \$.95, you haven't deceived them in the same way.

The second difference is it tends to have an effect that raises prices. For the credit customer, that dollar sale now becomes \$1.05 sale, and fairly the store could lower its cash price to \$.95 and then put on a 5 cent credit card surcharge, but in reality, you and I know that they are not going to do that. They are still going to charge the dollar. So they have the overall effect of raising the average price of goods for all customers.

House Bill No. 5825, which would establish a banking law study dealing particularly with certain kinds of bank service charges, I simple say for the record, I support.

House Bill No. 5978, which deals with the bi-weekly mortgage payments plus some other collateral matters, that seem to have appears in Sections 4-6, I will tell you that I support the entire bill. Certainly the first three sections, the part Section 5 dealing with notice of delinquency charges appears to me has an impact only on those creditors that do not bill on a periodic basis.