

PA13-215

HB5607

General Law	331-332, 333-339, 343-349, 358-366, 379-385, 427-434, 445-449, 455-458, 535-536, 538, 540-553, 610-611	68
House	9692-9698	7
Senate	5140, 5157-5159	4
		79

H - 1177

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2013**

**VOL.56
PART 28
9391 - 9742**

DEPUTY SPEAKER SAYERS:

Representative Ritter, for what purpose do you stand?

REP. RITTER (38th):

Thank you, Madam Speaker.

I rise to ask that my vote be recorded in the affirmative.

Thank you.

DEPUTY SPEAKER SAYERS:

The vote will so note.

Will the Clerk please announce the tally.

THE CLERK:

Yes, Madam Speaker; H.B. 6701, as amended by House "B."

Total Number Voting	147
Necessary for Passage	74
Voting Yea	144
Nay	3
Absent, not voting	3

DEPUTY SPEAKER SAYERS:

The bill as amended passes.

Will the Clerk please call Calendar Number 128.

THE CLERK:

On Page 3, Calendar Number 128, Favorable Report of the joint standing Committee on General Law, House Bill

5607, AN ACT CONCERNING ALCOHOLIC LIQUOR PERMITS.

DEPUTY SPEAKER SAYERS:

Representative Baram.

REP. BARAM (15th):

Good afternoon, Madam Speaker.

I move for acceptance of the joint committee's
Favorable Report and passage of the bill.

DEPUTY SPEAKER SAYERS:

The question is acceptance of the joint committee's
Favorable Report and passage of bill.

Representative Baram, you may have the floor, sir.

REP. BARAM (15th):

Thank you, Madam Speaker.

The Clerk has a strike-all amendment, LCO 8691. I'd
ask that the Clerk call this amendment and that I be
granted leave of the Chamber to summarize.

DEPUTY SPEAKER SAYERS:

Will the Clerk please call LCO Number 8691, which will
be designated House Amendment Schedule "A."

THE CLERK:

Yes, Madam Speaker; House Amendment "A," LCO 8691,
introduced by Representatives Hoydick, Baram,
et al.

DEPUTY SPEAKER SAYERS:

The Representative seeks leave of the Chamber to summarize. Is there any objection to summarization? Is there any objection?

Hearing none, Representative Baram, you may proceed with summarization.

REP. BARAM (15th):

Thank you, Madam Speaker.

This is a strike-all, bipartisan amendment, and I want to thank all the people who helped work on it.

This amendment allows an applicant for a manufacturer's liquor permit to apply for a 90-day, provisional permit while their application for a liquor permit is pending. This is in the discretion of the Liquor Commission, and there is a \$500 fee associated with it.

This is a good bill and I move adoption.

DEPUTY SPEAKER SAYERS:

Question before the Chamber is adoption of House Amendment Schedule "A."

Will you remark on the amendment?

Representative Carter, of the 2nd.

REP. CARTER (2nd):

Thank you, Madam Speaker.

As -- as my colleague address the aisle said, this will ensure a 90-day, provisional permit for manufacturer

of liquor, which this is a good bill; it's good for small business.' I urge its adoption.

DEPUTY SPEAKER SAYERS:

Will you remark further on the amendment that is before us?

Representative Hoydick, of the 122nd [sic].

REP. HOYDICK (120th):

Thank you, Madam Speaker; nice to see you. Madam Speaker, I'm very pleased with this amendment on this bill, and I would like to thank all those involved in helping it's, through its passage.

A year ago, we were very supportive in this Chamber and passed a variety of laws that helped one of our new businesses in Stratford, Two Roads Brewing Company. And this will also open their book of business a little differently and -- and enable them to do some tenant-contract brewing, as well as other breweries in the state. So we're looking forward to seeing how this project goes.

Thank you, very much, and I encourage adoption. Thank you.

DEPUTY SPEAKER SAYERS:

Representative Mushinsky, of the 85th.

REP. MUSHINSKY (85th):

Thank you, Madam Speaker.

I rise to support the amendment as well.

And I wish we could have helped my constituent, who was also a small-business man, Elm City Distillery. And all he wanted from the Legislature was a very simple thing; he wanted to be able to sell the product that he makes at his premises. This man is a merchant marine who came back to Connecticut, wanted to start a business. It was too expensive to start a winery, because you have to have enough money to buy land, and there were too many people in the craft beer industry, so he started a distilled spirits business. He works very hard.

Earlier in the session, he asked for permission to sell his product. And, unfortunately, this business has been caught in a crossfire between minimum-markup pricing, which is advocated by package stores, and Governor's Office, which opposes minimum markup.

And because of that, I cannot call the amendment today to help this small-business man; I think that's a travesty. And I hope that everyone in this assembly on both sides of the aisle will help this small-business man in the next session. He deserves it. He works hard. He should be allowed to sell his product. Thank you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Will you remark? Will you remark further on the amendment that is before us?

If not, let me try your minds. All those in favor of the amendment, please signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER SAYERS:

Those opposed, Nay.

The Ayes have it. The amendment is adopted.

Will you remark on the bill as amended? Will you remark further on the bill as amended?

If not, will staff and guests please come to the Well of the House. The -- the members take their seats, and the machine will be open.

THE CLERK:

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

A VOICE:

We're having trouble with the outside button.

THE CLERK:

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

DEPUTY SPEAKER SAYERS:

Have all the members voted? Okay.

Have all the members voted?

If -- please check the board to see that your vote has been properly cast. If all the members have voted then the machine will be locked and the Clerk will take a tally.

THE CLERK:

144, 0, 6.

DEPUTY SPEAKER SAYERS:

The Clerk will announce the tally.

THE CLERK:

Yes, Madam Speaker.

House Bill 5607 as amended by House "A".

Total Number Voting 144

Necessary for Passage 73

Those voting Yea 144

Those voting Nay 0

Absent and not voting 6

DEPUTY SPEAKER SAYERS:

The bill as amended passes.

Will the Clerk please call Calendar Number 642?

THE CLERK:

S - 667

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2013**

**VOL. 56
PART 16
4803 - 5160**

cah/gbr
SENATE

338
June 4, 2013

SENATOR DOYLE:

Thank you, Madam President.

I move this bill to the Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, have another item to -- to move to the Consent Calendar. Madam President, would ask for suspension for taking an item which is on Senate Agenda Number 3, House Bill 5607. First of all would move for suspension to take up that item.

THE CHAIR:

Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Madam President.

And now, Madam President, would move to place House Bill 5607 on the Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Madam President.

If we might stand at ease until the next item is ready.

THE CHAIR:

cah/gbr
SENATE

355
June 4, 2013

Madam President, seeing no objection, would this item please be placed on our Consent Calendar?

THE CHAIR:

Seeing no objection, so ordered.

Senator Looney..

SENATOR LOONEY:

Thank you, Madam President.

Madam President, with that item being moved to the Consent Calendar, Madam President, there is an -- an item on the foot of the Calendar to be removed and, Madam President, on -- on the foot of the Calendar, Calendar Page 42, Calendar 648, House Bill 6660, would move to remove that item from the foot and to mark it passed retaining its place on the Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, at this point if the Clerk would list the items on the second Consent Calendar so that we might proceed to a vote on that Consent Calendar.

THE CHAIR:

Mr. Clerk.

THE CLERK:

House Bill 5607; House Bill 6509; House Bill 5027. On Page 4, Calendar 459, House Bill 6622; on Page 7, Calendar 536, Senate Bill 1163.

HB6591

Page 14, Calendar 651, House Bill 6565. On Page 15, Calendar 660, House Bill 6290. Page 17, Calendar 678, House Bill 6671. Also Calendar 686, House Bill 6528.

cah/gbr
SENATE

356
June 4, 2013

On Page 19, Calendar 689, House Bill 6677 and on Page 24, Calendar 484, Senate Bill Number 983.

THE CHAIR:

Mr. Clerk, will you call for a roll call vote on the second Consent Calendar. The machine is open.

THE CLERK:

Immediate roll call has been ordered in the Senate. Senators please return to the Chamber. Immediate roll call on Senate -- on Consent Calendar Number 2 has been ordered in the Senate.

THE CHAIR:

If all members have voted, if all members have voted, the machine will be closed. Mr. Clerk, will you please call the tally.

THE CLERK:

On Consent Calendar Number 2.

Total Number Voting	35
Necessary for Adoption	18
Those voting Yea	35
Those voting Nay	0
Absent and not voting	1

THE CHAIR:

Consent Calendar passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, I would move for immediate transmittal to the House of Representatives of any items voted on the second Consent Calendar needing additional action by the House.

THE CHAIR:

cah/gbr
SENATE

357
June 4, 2013

So ordered, sir.

SENATOR LOONEY:

And also if there are any other items that were voted individually that may need additional action by the House.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Good, thank you, Madam President.

Madam President, that will conclude -- conclude our business for this evening or this morning at this point. Before adjournment I would yield the floor to any members for announcements or points of personal privilege.

THE CHAIR:

Any announcements or personal privilege?

Seeing none, Senator Looney.

SENATOR LOONEY:

Madam President, for a -- a Journal notation. Senator Coleman was -- was absent and missed votes today due to -- due to illness.

THE CHAIR:

So noted, sir.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, one other item. On the -- the -- the items on the foot of the Calendar beginning on Calendar Page 27, beginning with Calendar 59, on Calendar Page 27 at the beginning of the foot and

**JOINT
STANDING
COMMITTEE
HEARINGS**

**GENERAL
LAW
PART 2
270 - 579**

2013

flat glasswork, with appropriate education, experience and knowledge levels established, CTASLA, a board for trade landscape contractors is appropriate. Additionally, as a licensed professional, landscape architects recognize the importance of education to obtain and maintain our professional license. In review of the trade licenses, we've recognized the importance that other trades place on education and experience, and as such, we believe similar levels of importance should be stressed on the trade license for landscape architects.

While the trade -- while in concept, a trade registration is appropriate, we believe it further -- needs further investigation to really dig into the details of this bill. Thank you and if you have any questions --

SENATOR DOYLE: Thank you.

Any questions?

Seeing none, thank you very much.

ARIS STALIS: Thank you.

SENATOR DOYLE: Next speaker is Cathy Barber, Christine Hogan, Mike Paine, Martin Acevedo.

Cathy Barber.

CATHY BARBER: (Inaudible) petroleum and the New England Convenience Store Association. I'm speaking on five bills. We oppose S.B. 440 and House Bills 5045 and 5607 regarding debit card purchases.

(HB 6205)

HB 5419

For gasoline retailers, debit cards are not the same as cash. Retailers are charged a fee for every debit transaction. Forcing retailers to offer cash discounts to consumers using debit

would prohibit our offering genuine discounts to true cash customers. Example: On a \$20 sale yesterday at an actual station posting a cash price, the gross profit was 30 cents on the total \$20 sale. At that particular station, the debit fee that could have incurred is 23 cents. The retailer would earn seven cents before expenses. That's right. The debit company earns more than we do on the sale of fuel.

Debit is plastic. Credit is plastic. Cash is cash. There is no free lunch for retailers taking debit cards. We strongly oppose offering cash discounts to noncash customers.

We oppose H.B. 6025 requiring gas stations to deduct the exact amount of a debit station. Gas stations don't place holds or reserves on customer's accounts. We don't even know who issued the debit card. We derive no benefit financial or otherwise from any hold period. This bill asks that we change something we have no absolutely no control over.

(HB 6205)

Also, we oppose Bill Number 5419 prohibiting the expiration the retail gasoline rewards points. Some gasoline rewards -- some gasoline locations are redemption centers for rewards programs; however, most, but some -- but most do not generate or provide points nor cause them to expire. Let me mention, rewards points are not gift cards. They are promotions like any other sales promotion. Sales have ending dates. Coupons expire. Even winning lottery expire. Time limits instill a sense urgency in the consumers; otherwise, President's Day sales would never end. My Kohls' coupon would next expire. Airline and hotel points would not evaporate over time. Gasoline rewards points are no different than other industry rewards points with redemption periods. Promotions

make good business sense, but they don't last forever.

We urge you to reject all the bills discussed here.

HB 5607 HB 5045

SB 440 (HB 6205)

HB 5419

And I would like to just mention, Senator Witkos, as opposed to a newspaper coupon, which I consider a before-purchase coupon, I believe a rewards experience is an after-purchase coupon and it does have an expiration date.

Thank you.

SENATOR DOYLE: Thank you.

Any questions from the committee?

Representative Rutigliano.

REP. RUTIGLIANO: Thank you, Mr. Chairman.

HB 5607 HB 5045

SB 440 (HB 6205)

And thank you, madam, for your testimony. I have a couple of questions. In the convenience store, what makes it a debit card purchase? Is it the simple act of adding in the pin?

CATHY BARBER: No, not necessarily. There are non-pin based debit cards. The customers or the consumer's choice of using a debit card from whoever he's chosen back or issuer is what makes it a debit purchase as opposed to say a MasterCard, Visa or Discover credit card.

REP. RUTIGLIANO: That's where my question is going.

Thank you, sir.

Because you know what, I have my own business where we accept credit cards and we actually don't differentiate between a debit card and a credit card. Everything is a credit card. If

it has a logo, it's a credit card. There is no pin. There is no debit. There -- what is your transaction fee comparatively between a debit card and a credit card. What -- you know how we pay the --

CATHY BARBER: Absolutely. .

REP. RUTIGLIANO: -- the transaction and then --

CATHY BARBER: Let me just that the margin in your business is I expect to be much larger than the margin on the sale of a gallon of gasoline. Traditionally, debit card fees are, in fact, less than credit fees, but they are not free. We have been wrestling on a federal level with what some of you might be familiar with, the Durbin Amendment. We -- as an industry, we maintain that debit cards are, in fact, electronic checks and should not -- we should not, as an industry or even consumers, incur a fee on debit transactions, however, we do. It's part of the process. We are not issuers of debit cards. So hopefully in that, I got you answer. We do pay fees --

REP. RUTIGLIANO: Well, we all know that no business -- no credit card is free. We pay a percentage --

CATHY BARBER: No debit card is free.

REP. RUTIGLIANO: -- of the total purchase plus a transaction fee every time somebody uses their credit card.

CATHY BARBER: That's correct.

REP. RUTIGLIANO: So you have -- when somebody hands you a debit card with a credit card logo, who chooses how you ring --

57
mb/rgb/gbr GENERAL LAW COMMITTEE

February 21, 2013
1:00 P.M.

CATHY BARBER: The consumer.

REP. RUTIGLIANO: The consumer says that's a debit card, give me your thing. I'm going to do my pin.

CATHY BARBER: If you -- I mean, many places where I shop, the cashier says credit or debit.

REP. RUTIGLIANO: Right. So how does your transaction fee change when they decide to use a debit card as opposed to a credit card?

CATHY BARBER: How does it change? To do mean technologically speaking?

REP. RUTIGLIANO: Do you still pay a percentage of the purchase to the credit card companies?

CATHY BARBER: Oh, absolutely. There is no -- we do not have -- there is not a single debit card transaction that takes place in our business with -- whether they buy gasoline or Coca Cola.

REP. RUTIGLIANO: Okay.

CATHY BARBER: There is a fee.

REP. RUTIGLIANO: So whether they use a debit or a credit, you pay a fee. You also pay a transaction for every swipe.

CATHY BARBER: Absolutely. We pay a swipe fee. We pay a percentage and we also pay a PCI compliance fee.

REP. RUTIGLIANO: Do you -- do gas stations or most convenience stores offer the cash back option if somebody uses a debit card?

CATHY BARBER: I'm not familiar with any that do. There are perhaps members who do, in fact, do

so. We -- we would be unlikely at our small margins to -- to prompt a customer for cash back because we also pay a fee on that. What's the point? We're now out that much cash and we're paying a fee to do that.

REP. RUTIGLIANO: The reason for my question would be then why do you even accept debit cards? Why isn't everything treated as --

CATHY BARBER: That's a great question. I wonder that myself.

REP. RUTIGLIANO: -- a credit card.

CATHY BARBER: We --

A VOICE: They have to.

REP. RUTIGLIANO: No, you don't.

CATHY BARBER: We do it because the consumer wants to pay with various forms of tender. Cash discounts are allowed here in the state of Connecticut and I believe that we are in a situation where many of our retailers have chosen to evaluate the cost of doing business with credit and debit cards. And some of my customers have said, you know, if it's going to be eight, nine cents a gallon to do this and I'm making not much more than that on a sale, I'd like to give my cash customers back what -- give them the money instead of giving it to a credit card company. And hopefully inspire more people to take green pieces of paper out of their wallet and actually finish a transaction without any incurring any processing fees.

In a sense, it is a promotion. We would love to have cash. We'd like it.

REP. RUTIGLIANO: I appreciate your situation. I think it's important that everybody know that even though they're using it as a debit card, that there still is a percentage and a transaction fee that's paid by the merchant for accepting the card.

Thank you. Thank you for your testimony.

Thank you, Mr. Chair.

SENATOR DOYLE: Thank you.

Any further questions?

Representative Carter.

REP. CARTER: Thank you very much, Mr. Chairman.

Thank you for your testimony. So just so I understand this, if I go today and I go to the pump and I know there is a 10 cent difference between cash and credit usually.

CATHY BARBER: Uh-huh.

REP. CARTER: But I go and I swipe my debit card and I run it as a credit -- because I can do that, I can --

CATHY BARBER: Oh, yeah, you can.

REP. CARTER: -- run my debit card and it say debit yes or no, I push no and I run it as a credit because I get a benefit from my bank for doing that.

CATHY BARBER: Okay.

REP. CARTER: You would actually end up paying a little more from using that credit card transaction versus if I had done it as debit.

CATHY BARBER: Yes. Credit card fees are higher than debit fees.

REP. CARTER: So that's my first thing. I wanted to make sure I understand it. Now, the second thing is we're talking in this legislation about not charging a premium for purchases. What you're explaining is that the difference between the cash and credit is actually a reward to say we're going to give you less -- you know, we're not charging you more because you're using credit. You're saying we're going to charge you less if you decide to use cash because you're saving us money.

CATHY BARBER: In the state of Connecticut -- in the state of Connecticut, it is against the law to charge a premium for a tender such as plastic.

REP. CARTER: Right.

CATHY BARBER: It is legal to discount for cash.

REP. CARTER: Right.

CATHY BARBER: So we have some members who, in fact, discount for cash.

REP. CARTER: Right. So I guess what I'm saying is I go to some stations and there is no difference between the cash and credit price. That's their decision.

CATHY BARBER: Absolutely. A business man's prerogative.

REP. CARTER: But when I see the -- the two numbers up there together, if it's a 10 cent difference, what they're doing is they're giving me a benefit based on paying cash.

61
mb/rgb/gbr GENERAL LAW COMMITTEE

February 21, 2013
1:00 P.M.

CATHY BARBER: That's correct.

REP. CARTER: So they're not charging me a premium?

CATHY BARBER: No. No.

REP. CARTER: And that's what I wanted to understand because as the way I read this, that's not what happening, but I appreciate your time.

Thank you, Mr. chairman.

CATHY BARBER: Certainly.

SENATOR DOYLE: Representative Orange.

REP. ORANGE: Thank you, Mr. Chair.

Good afternoon. You certainly have presented yourself very well here today.

CATHY BARBER: Thank you.

REP. ORANGE: And especially in answering our questions. As it relates to a debit card when the debit cards first were coming from your banks, you know, you get a debit card and then it just started coming whether you wanted one or not and it was up to you to plug into it or not. It's basically taking the place of our paper checks.

CATHY BARBER: I recall my bank advertising that I should use a debit card because it was similar to using both a check or cash because it came immediately out of my bank account.

REP. ORANGE: Right. And so I think that consumers -- some of the consumers that may be using these debit cards aren't realizing the amount of money that the transaction is actually costing them until their bank statement or a

(HB6205)

gasoline purchase that --

CATHY BARBER: It always does.

SENATOR WITKOS: Well, maybe they're using it more often in that respect. Just a couple questions. You said that there are three -- or two layers of how the costs of gasoline purchase. One is a cash, which is a rewards program and the second one -- well, I won't say rewards program. But you get a discount I guess if you well by paying the cash price.

SB 440
HB 5045
HB 5607

CATHY BARBER: It's an incentive --

SENATOR WITKOS: Incentive.

CATHY BARBER: -- for using cash as a tender.

SENATOR WITKOS: And the other one it doesn't differentiate between a debit or a credit card.

CATHY BARBER: No, it does not.

SENATOR WITKOS: But the fee that you receive as the processor, you receive a higher fee if it's a credit card versus a debit card fee that you pay.

CATHY BARBER: Let me just clarify. We don't receive a fee. We pay a fee.

SENATOR WITKOS: You pay. If you paid a debit fee, it's less than if you -- if you had paid a credit fee.

CATHY BARBER: That is true.

SENATOR WITKOS: How would you feel if we say well then we should have three levels of gasoline purchase abilities at the pump? If you pay a cash price, this is what you pay. If you pay

versus a debit card, you pay this price. If you pay on a credit card, you pay this price because I think the consumer often believes that, you know, they're getting -- they're led to believe that a debit card is similar to cash. When I put it in there, it immediately comes out of my checking or savings account so in their eyes, it's cash. If you put in as a credit card, it may a day or two.

So there is a disconnect somewhere in the -- I don't know if it's an educational forum, but how would you feel about having he three different levels of offerings?

CATHY BARBER: I would say that I'm not even convinced that our technology could handle that many different types of pricing. In addition -- and many stations could not possibly keep up with this type of technology demand. The other thing I would say is that we are going to address only gasoline dealers and regulate how they -- how they price their products based on consumer's form of tender, then we're getting too deep into private businessman's decisions on how to operate.

I don't believe, as a businessperson or as a consumer, that I have an -- that there is right for a discount. I believe it's an option. And when I offer it as a businessperson, that I make that choice. That if there would be a regulation that would say we're now going to distinguish between -- what's to say a check which may, in fact, cost some banking customers 20 cents per check to deposit, what's to say we wouldn't have four or five different ways to pay for gasoline and that you require us then to have that many options at the pump.

Our regulations from the consumers protection division requires that we have very clear and

conspicuous pricing at the pump, and in some cases, on the street. We're regulated by sign size, square footage, all kinds of issues with towns and the size of signs. The color of the signs, in fact, on top of the pump are another regulation that we deal with. There's not enough room. I don't know how many more prices we could post.

And one of the things that's very clear as I work with the Department of Consumer Protection is clear communication with the customer as to what the price is. Cash, credit, maybe we should say cash, noncash. Perhaps that's the way to go. All right. Because when you discuss that we're going to now get into the very little details I believe -- I'm sorry if I sound offensive -- but if we pay 2 percent overall to take a debit card as a fee and then we pay 2.5 percent to a credit card, I mean, really. That's -- it's part of doing business. All of our businesses pass on our expenses to our customers. It some way or another it happens.

SENATOR WITKOS: Right. Could you just -- if I may, just a moment, what was the federal exemption that we're not allowed to do? Did you say about federal law prohibits us from -- I thought I heard earlier in your testimony.

CATHY BARBER: What I said was Connecticut law, if that's one that you're referring to, prohibits us from charging for the use of credit or debit. Connecticut law prohibits that. Connecticut law allows discount for cash.

SENATOR WITKOS: Okay. I'm sorry. I thought I heard somewhere earlier. The debit charges versus --

CATHY BARBER: The Durbin law regulates a maximum

debit fee for -- and this is interesting and so complicated and I have this much material in my briefcase on this -- Dodd-Frank addresses certain classes of debit card issuers. They are -- they distinguish them in many ways. There are large banks, small banks, large credit credit card companies such as MasterCard and Visa and credit unions. As a retail -- as a person who represents retailers, I couldn't tell you the difference but they -- the processors are responsible for the technology at our stations whether it be a Mobil station, a Citgo station or an unbranded station, the credit processing company is installing all of that technology at our -- at our stations and when we complete our end of days, we get a report that says these are the fees that were deducted from our account.

Whether I could actually distinguish a consumer who may have a debit card with TD Bank versus a consumer whose debit card is tied Webster Bank versus Dutch Point Credit Union, I don't think I could do that.

SENATOR WITKOS: Okay. Thank you.

CATHY BARBER: I'm just going to get a total.

SENATOR WITKOS: The technology is always changing and I hope -- and we always change a lot of different things to preferences of our consumers, and honestly, I do a lot of shopping whether it's, you know, around -- runs the gamut, more people are shopping with plastic, debit or credit, than you see greenbacks coming out of the wallet.

CATHY BARBER: I would say that the -- the advertisers be it banks or any other type of issuer who promotes the debit use to consumers and we are seeing more and more use. They're

promotions and their advertising is very successful. They do say this similar to a check or similar to cash. What they don't say is by the way, the merchant where you tender the debit card pays for this convenience for you. All right. So again, there is no free debit lunch for the retailer and the merchant.

SENATOR DOYLE: Thank you.

Any further questions?

Seeing none, I would just like to -- the first point is that as one of the supporters of this legislation I was maybe misinformed. My interpretation just follows what you just said that there, in fact, a fee, maybe a little reduced from the credit card, but there is a fee for debit cards. That being said, how would you -- in terms of -- so that's a mis -- in this bill, that's some misinformation that we had. But the question is, hypothetically, you could say that a gas station is benefiting because the credit price, unless it's a blended price, if I'm paying by a credit card and I'm paying the higher 10 cent fee or whatever, but if I'm paying by debit, the credit card company -- I mean, the gas station is making a benefit if it's like -- if it's 5 cents for debit and 10 for credit, there could be in theory, a five-cent windfall for the retailer unless it's a blended rate. Would you say you guys have a blended rate or --

CATHY BARBER: I very rarely in Connecticut have experienced windfall profit margins on gasoline. However, that said, we don't analyze each transaction individually. We do -- you call it a blended margin. We call it a pool margin. So at the end of the day, we can see on our daily report, X number of dollars for processed as cash and X number as fee based,

all right, fee based. So would the blended fee-based rate be reduced if debit use increases and say counterbalancing the decrease in credit, yes, absolutely.

But in the end, on a national basis, the National Association of Convenience Stores has excellent information on their website and discloses this information in our meetings, that for the past several years, the credit card industry and debit card industry made more money from the sale of gasoline than retailers throughout the United States did. In other words, our margin is significantly less on the sale of gasoline than the fees collected by the credit card and debit card issuers. Now, that's something I'd like you to work on.

SENATOR DOYLE: Thank you very much.

Any further questions?

Seeing none, thank you.

CATHY BARBER: Thank you.

SENATOR DOYLE: Next speaker --

Sorry. Representative Rovero, I missed you.
Representative Rovero.

REP. ROVERO: (Inaudible) but on the other hand I find it troublesome because at my age, I like to save as much time as I can and if I want to fill up my tank and pay cash, I have to -- if I know I'm going to spend \$50 in cash, I have to leave \$60. When it shuts off, then I have to back in and get my change. Is there a way that we can make this a one transaction deal? Do you know what I'm saying?

CATHY BARBER: Representative Rovero, (inaudible)

71
mb/rgb/gbr GENERAL LAW COMMITTEE

February 21, 2013
1:00 P.M.

the money and we'll install cash acceptors at our dispensers. Then you could just feed the \$20 bills outside. I think there is a station out near your home that does that. But few of us have installed that technology.

REP. ROVERO: Okay. Thank you very much. I'm just trying to save time and money.

SENATOR DOYLE: Thank you.

Any further questions from the committee?

Seeing none, thank you.

Next speaker Senator Meyer, as the last remaining public official, and then it's Christine Hogan, Mike Paine, Martin Acevedo and Kenneth Gurin.

Senator Meyer.

SENATOR MEYER: Senator Doyle, Representative Baram, Senator Witkos and great members of the committee, the General Law Committee. This is my first appearance before this committee and you're very important.

I've come today to urge you to do a landscape licensing bill and there are two such bills on your agenda today. One introduced through me and one introduced through Representative Camillo. They are Senate Bill 112 and House Bill 5215. The reason why I think you should create a license for landscaping is that it has become a profession. Landscaping -- good landscaping is based upon good design and good design requires education standards and qualifications and so what this bill does is it sets up a five-member state board of landscapers who will be responsible promulgating the education and qualification

CHRISTINE HOGAN: Hi. My name is Christine Hogan. I live in Fairfield, Connecticut. I am the vice president of Consumers Petroleum/Friendly Service Stations out of Trumbull, Connecticut. The company was founded by the Wheel family in 1936 and they still own and operate them today. We distribute petroleum throughout Connecticut and New York. We also own and operate 18 of our stores with gas.

I'm here today to oppose S.B. 440, H.B. 5045, H.B. 5607 and H.B. 6205. Asking retailers to charge the same for debit as cash is not reasonable because these transactions incur a fee. I've attached to my testimony the Citgo, Sunoco, BP and Gulf fees that we got off their websites. As you can see when you look at them, it shows the fees and it does also answer your question about the Visa fee versus the debit fee. So I just wanted to give you an example of how we calculate fees. So the customer comes in and purchases 15 gallons of gas and the price is \$3.59. That would be a sale to us of \$53.85. The fee calculation would come out to we would pay 39 cents because it is a percent fee, plus a flat fee.

As a branded distributor of petroleum products, I cannot shop my fees. When we become a branded gas station, we have to accept the network and the credit processing schedule of the brand that we are. I hope my testimony today helps you understand the complicated nature of the fees and how they are assessed. If you have any questions, I would be happy to answer them.

SENATOR DOYLE: Thank you. And thank you for putting it in writing. It's helpful.

Any further questions from the committee -- or

81
mb/rgb/gbr GENERAL LAW COMMITTEE

February 21, 2013
1:00 P.M.

I should say, any questions from the committee?

Representative Esposito.

REP. ESPOSITO: Good afternoon, Christine. How are you?

CHRISTINE HOGAN: Hi. How are you?

REP. ESPOSITO: In your illustration of the 15 gallons, is that the debit price right there or the credit price?

CHRISTINE HOGAN: Well, this was done on the credit price.

REP. ESPOSITO: This was done on a credit price?

CHRISTINE HOGAN: Yes.

REP. ESPOSITO: And on the other side if we did the same comparison on a debit price, what would that work out to be?

CHRISTINE HOGAN: Well, there wouldn't be a calculation if we did it on a debit price because then we wouldn't have a fee on a cash price because there is no fee to us when people pay cash.

REP. ESPOSITO: Yeah, but I'm talking about one a debit. So a debit is --

CHRISTINE HOGAN: Oh, this is a debit fee, 39 cents. Are you asking me what would be the Visa fee?

REP. ESPOSITO: No. No. What is the fee -- the calculation you are showing, was it a debit or a credit price?

CHRISTINE HOGAN: Debit.

82
mb/rgb/gbr GENERAL LAW COMMITTEE

February 21, 2013
1:00 P.M.

REP. ESPOSITO: Okay. So can you give me the same scenario on a credit price?

CHRISTINE HOGAN: Well, I could. I would need calculator because you would have multiply. You just look at the table and you take a Visa fee of 1.7 multiply that by 53.85 and add 15 cents.

REP. ESPOSITO: Okay. So instead of adding it by .30, it's 1.7.

CHRISTINE HOGAN: That's correct.

REP. ESPOSITO: So it's basically a cent and a half cheaper with the debit price.

CHRISTINE HOGAN: It is a cent and a half cheaper with the debit card.

REP. ESPOSITO: Okay. So I think Senator Witkos brought up earlier that, you know, maybe there should be a three-tiered system instead of just one. I know in current law when it was written it was cash, debit or check and somehow it's gotten worked around that debit is now falling under credit.

CHRISTINE HOGAN: Yeah. From what we understand right now we can only two prices. We can post a discount for cash and our other price.

REP. ESPOSITO: Right.

CHRISTINE HOGAN: So we would have to change the law like you said. But if you look at these schedules what's really complicated is look how many price points there are. So what do we do when someone comes in with a discover. Do we charge more? Or American Express, which is typically the highest. That's what we're worried about. We're not trying to make more

money on debit because Visa costs more by charging the same. We're trying to create a blended because it's just too difficult to communicate this to the consumer.

We would have to have notes over our dispenser that would be the whole dispenser for them to understand. And I did want to say one thing, someone asked a question about how can you choose debit or credit. You know you can just push a button when you're outside and say do you want this to be a debit or a credit transaction and they can say yes or no. Now, understanding we get less fees, they still pay the same price, but just to clarify that for you.

REP. ESPOSITO: You just mentioned American Express. Does American Express also have a debit and a credit card?

CHRISTINE HOGAN: You know, I'm not sure of it.

REP. ESPOSITO: All right. Because you made that statement and to my knowledge, I could be wrong. I think they only have a credit card not a debit card.

CHRISTINE HOGAN: Yes. And I think that they are one of the highest -- like they're 3.25 percent versus 1.7 for a MasterCard or Visa.

REP. ESPOSITO: So there should be some room in here for a consumer to get a little bit of relief if he's going to pay by debit card and not be charged the credit card price. But we would just have find some middle ground.

CHRISTINE HOGAN: Yeah. Just to go through the logistics, I -- we can't manage it. Like it all has to be managed through our network and through our branded partners. We don't control

anything that happens -- once that consumer puts that credit card in the pump or at -- inside, we have nothing more to do with it.

REP. ESPOSITO: Right.

CHRISTINE HOGAN: So we would have to spend a lot of time working with major oil and their technology to ever even come close to making this happen.

REP. ESPOSITO: And one final question, you mentioned before that at the pump if they push credit, they'll pay one price and if they push debit, they'll be paying the same price, but it's just treated differently.

CHRISTINE HOGAN: It's just assessed a lower fee to us, the retailer.

REP. ESPOSITO: But he's paying the same price, but you're paying the lower fee even though he pushed debit.

CHRISTINE HOGAN: If you have a cash/credit price structure, yes.

REP. ESPOSITO: Okay. Thank you.

CHRISTINE HOGAN: You're welcome.

SENATOR DOYLE: Representative Carter.

REP. CARTER: Thank you, Mr. Chairman.

That is great segue to what I was going to ask. Who determines whether or not you're going to do a cash/credit fee structure?

CHRISTINE HOGAN: The owner of the gas station determines that.

85
mb/rgb/gbr GENERAL LAW COMMITTEE

February 21, 2013
1:00 P.M.

REP. CARTER: So judging from what I heard so far today, it's fairly reasonable to assume that if we were to say you cannot use a difference between cash and debit price, for instance, would be fair to assume that maybe those folks would just do one fee for everything and not give cash discounts.

CHRISTINE HOGAN: I think there is a fear that if you did do that and you said that you need to charge the cash price for debit, that those people running that two-tiered price structure today would not do it anymore. But I couldn't comment on what percent that is.

REP. CARTER: No, I understand that. I understand that you can't -- I mean it just seems to me pretty rationale that if a owner of a gas station can make a choice of whether or not they're going to give a cash discount for somebody who pays cash and we, as a legislative body, come in and say well, yeah, you can do that, but you can't do it for debit cards and they're still going to get in this case what did we say a 39 cent extra fee for that transaction, it would probably be in the benefit of the owner/operator of the station just to say, you know, I'm not going -- I'm no going to do that program.

CHRISTINE HOGAN: Yeah. I think you're right. I think there is a fear.

REP. CARTER: That's where I'm going with this.

CHRISTINE HOGAN: Yeah.

REP. CARTER: I know the intention here is to help consumers and I love that, but I also wonder if this might backfire and actually not help consumers. Because frankly, I like paying the cash price. It may only be \$1.50 at the pump

that day, but you know, a buck fifty extra that you're keeping in your pocket at the pump I think is worth it. So thank you.

CHRISTINE HOGAN: Yeah. Okay.

SENATOR DOYLE: Thank you.

Any further questions?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

To continue on the train of thought of Representative Carter, couldn't the opposite be argued that a gas station would charge a blended rate between a debit card and cash so that they could still promote a discount program and attract people. My own observation is particularly among the younger generations. They carry no cash on them and use the debit card exclusively so you would think it would be an incentive for some kind of a discount program to continue understanding that the discount might be a little bit less than it is now if you were blending into it the factor of the charge for the debit card. Would you agree with that?

CHRISTINE HOGAN: Well, I think what you are saying is people who own a gas station would put a big banner outside or change their product price sign to say debit price and they would attract someone who isn't doing it so that you could attract that 25-year-old who is only paying with a debit card so you would have three-tier pricing.

REP. BARAM: I'm not suggesting three-tier pricing. What I'm saying is if we treated the debit transaction the same as a cash, instead of

offering let's say a 10 cent discount, maybe the station would offer a six cent discount because you're incurring an extra charge for the debit card. But I think the gas station would still promote a discount program. It might just be a little bit less so that is could attract --

CHRISTINE HOGAN: So you're saying that you would have maybe a six cent differential instead of a 10 cent differential -- or a 12 cent differential instead of a 10 cent differential. But then you would have to get -- think about it. Now, you would have to have how many signs on top of your dispenses because right now we're required by law to post every price at every level. Then our ID signs need to communicate fairly. Would they do it? I don't know. We looked at one site we had -- we didn't have tons of time to gather data and 30 percent of the transactions at this one site was debit. So we would have to mathematically say does this make sense for us to promote this.

SENATOR DOYLE: Yeah. That's not his point. I think his point if say the Legislature passed this bill and mandated you to charge cash the same as debit, he's saying if that was law, you then would have to -- you would ultimately raise your discount price for cash to absorb those fees. That's simple. So the reality is if we ever pass this, the cash price would -- would rise to incorporate the fees basically. It makes commonsense.

CHRISTINE HOGAN: Yeah, if people chose to do it. They would have to do that.

SENATOR DOYLE: Yeah. That was his point.

CHRISTINE HOGAN: Yeah. I'm sorry. I

misunderstood. They would have to do that.

SENATOR DOYLE: Yes, okay.

Any further questions from the committee?

Seeing none, thank you very much.

CHRISTINE HOGAN: Thank you.

SENATOR DOYLE: The next speaker is Mike Paine then Martin Acevedo, Kenneth Gurin, Ed Levine, Jay Zelermeyer.

Mike Paine.

MICHAEL PAINE: Good afternoon, Senator Doyle and Representative Baram and fellow commission members. My name is Mike Paine. I'm the owner of Paine's Recycling and Rubbish Removal and also state chapter chairman for the National Solid Waste Association. You have four bills -- proposed bills in front of you, Number 771, 5214, 5905 and 6206. We are opposed to all those bills. I've handed in testimony. I'm going to try and hit the three-minute number for you.

We are opposed to those bills. Back in 2007, the state required a pretty significant change in the hauling contract that we gave our customers and made a number of changes to those contracts. Some of these bills would potentially give us unobtainable standards to meet or also very difficult standards. Some of them, 5214 deals with giving notice about the disposal rates increasing and very often we're not given that much notice as to when the contracts are increasing. Another two bills, 5905 and 6206, actually deal with providing written notice to the customers prior to the contract's expiration. Our billing system that

101
mb/rgb/gbr GENERAL LAW COMMITTEE

February 21, 2013
1:00 P.M.

Any questions from the committee?

Seeing none, thank you very much.

KENNETH GURIN: Thank you.

SENATOR DOYLE: Next speaker Ed Levine, Jay Zelermyer, Tom Falik.

EDWARD LEVINE: Good afternoon, Senator Doyle, Representative Baram, Representative Carter. My name is Edward Levine. I am president of Energy Advantage, Norwalk, Connecticut, technology company. I'm here to speak on House Bill 5607, AN ACT CONCERNING RETAIL DISCOUNTS AND METHODS OF PAYMENT.

House Bill 5607 proposes to discount -- to limit the discount pricing options available for Connecticut business. We believe that limiting those pricing options reduces Connecticut business competitiveness, both in our state and throughout the country. Connecticut should actually encourage marketplace transparency and economic activity by allowing both discounts and pass-through of actual fees associated with each type of economic transaction. Connecticut merchants have seen ever increasing cost of credit card acceptance. Our merchants have had little choice but to accept the rules and fees to accept the credit cards.

Connecticut consumers that do not have access to credit cards or the benefits of rewards card are financially supporting a system that embeds the cost of credit card acceptance into the purchase price. The current system that forces those are least able to pay to pay more in effect for products and services can and needs to be correctly. United States federal law has limited restrictions on the pass-through costs

of credit card transactions. In addition, recently, the Justice Department has accepted MasterCard and Visa's request to allow the pass-through costs for credit card transactions to occur. Leading economists agree that allowing merchants to charge the cost of credit card transactions as a pass-through is in the best interest of the United States and should be allowed.

Technology is available that allows merchants to automatically identify and calculate the fees associated with the actual cost of acceptance for a particular transactions. Consumers and merchants in Connecticut should be permitted to use the technology to create transparent cost of transactions, pass-through of the cost of credit card transactions and allows those that pay with less expensive methods to see lower costs. Consumers and merchants will both be able to lower the cost of transactions and save money. It will also allow Connecticut businesses to better compete interstate both electronically and physically with the 80 percent of United States that allow discounts and pass-through of credit card costs.

Instead of restricting either discounts or pass-through fees, Connecticut should permit the actual costs of any transaction to be charged to a consumer and give our businesses tools -- excuse me -- to increase economic activity and compete on a level playing field national. We've drafted legislative changes attached to our filed comments to accomplish these goals. And I also have the ability to add some additional insight on debit cards that has not been brought up by the previous speakers. Thank you.

SENATOR DOYLE: Thank you.

Any questions from the committee?

Senator Kissel.

SENATOR KISSEL: Very briefly, what's this additional insight on debit cards?

EDWARD LEVINE: Yeah. The Durbin Amendment requires that there are -- there is a regulated debit card and an unregulated debit card. Regulated debit cards are those banks with \$10 billion in greater assets. They are restricted to charging 21 or 22 cents plus 5 mils, or five cents per 100 on a transaction, plus the acquires cost. Meaning that when you are merchant, a gentleman comes in possibly to sell you a service, so those are the interchange rates for the debit card. In addition, you pay a potential transaction fee for the salesman, we'll call it, or the merchant acquirer. So in addition to the interchange fees, there could be other fees. Some of the transactions or contracts have a flat set fee.

There are some new merchants, new technology on your phone, you just pay a flat 2.75 percent for any card and a debit card would not necessarily see any discount. So we have to be careful regulating and legislating fees and charges when the technology is changing so quickly that we're not forcing competitive scenarios away.

We also have the issue that other states when we try to compete on an electronic basis don't require these regulations and companies that we are actually designed and have this technology -- we're designing it in Norwalk to do that transactions, give real-time calculations of the costs to allow the actual cost to be available to the merchant. And these

situations if we create too much legislative regulatory restrictions and other states don't do that, business will be lost. We'll have less activity in my opinion in Connecticut.

SENATOR KISSEL: So let's just go back to the gas station and the blended because I was really appreciative that Chairman Baram asked the question that I had thought of earlier which is if we just require that the rate of a debit matched the discount rate of cash, I think that fundamentally we'll probably end up with a choice. We have very high gas prices in Connecticut as it is and the net result in my view would be that retailers probably still do the discount, but that the ultimate discount would go up -- be reduce a little bit so that the price of gas for either cash or debit would be a little higher by a few cents than it is today.

But in exchange for that, what we're doing is we're telling consumers debit card equal cash because that's how people think of it and so that's a public policy decision. But the retailers still be able to do whatever they want with the classic credit card where the consumer is accumulating debit that they have to pay off. And to be honest, I have a concern with all of these folks because in our family, I inquired -- I didn't know -- one of our credit cards and it's 24 percent. You know, to me, that's usury and it's a sin, but somehow we have a construct where institutions can charge outrageous amounts of money. So let's set that issue aside but now that consumers are using debit cards like cash, should we not have some sort of consumer-friendly laws that treat them equally.

EDWARD LEVINE: I think the concept of having the actual cost of the transaction reflected in

what the customer pays is the best. When I commented that there are some people that can't get a credit card and they have to pay by cash or maybe a debit card if they have funds in a bank that allows them to do that, the way most merchants, excluding gasoline, they have one price and that price includes the credit price so they have embedded into those costs two, maybe 3 percent of the transaction and those people that are most challenged economically are, in my opinion, paying a premium and paying more money because they pay the full price. The people that with credit cards and everybody -- 80 percent have rewards, they give them 1 percent cash back or some equivalent, actually are getting a discount on that.

So the system when we regulate how much you can and can't charge without having this transparency available for what I call a "pass-through rate," which the federal government has determined is in the best interest of the United States, and MasterCard and Visa just settled with the Justice Department -- I don't know if you're familiar with that -- for a \$7 billion settlement to now require to allow surcharges to occur from every merchant. They had previously restricted that. The system had been set up that rewards would stimulate more use of the credit card systems and the fees were embedding a camouflage method that the merchant would pay them. The merchant had very little negotiating capability and the merchant's fees would go away certainly from our state and the merchant had no competitive capability.

In Australia, they allow pass-through fees meaning that the transaction costs associated with the specific card can be charged to the customer. In Australia, the average cost of a transactions are .8 percent. In the United

States, it's over 2 percent. So it is not certainly clear that not allowing pass-throughs isn't in the best interest of the consumer. So my point is there are anti-surcharging statutes that probably should be revisited in the state of Connecticut. And since this new regulation with the Justice Department and the United States Government, it may actually improve the economic activity in the state of Connecticut.

SENATOR KISSEL: And one last point with the indulgence of the Chair, it sounds like the more we sort of scratch the service, the more complicated this is, and you know, the little idea of the gas station now has sort of morphed into this giant financial institution, Justice Department.

EDWARD LEVINE: Fairness of transactions costs is a big issue. You can't just say debit cards are equal to cash.

SENATOR KISSEL: Yeah, I'm thinking PRI study task force something like that. My question is I couldn't really tell -- I'm hearing that you don't like this, but I don't know -- you're involved in software. So what is your business --

EDWARD LEVINE: Right. So my reason for being here is we have software that's been designed in Connecticut that allows a merchant -- and it's not allowed in Connecticut -- but allows a merchant to charge the fee associated with the actual cost of the transaction. If you hand me a debit card, let's say I'm a merchant, and that cost to me is 25 cents, I'll publish my cash rate. My cash charge is what all the tickets will occur. You hand it over and it says plus the cost of the transaction. If you hand me a debit card, your charge instead of \$100 will be \$100.25. If you hand me a 3

107
mb/rgb/gbr GENERAL LAW COMMITTEE

February 21, 2013
1:00 P.M.

percent AmEx card, your charge will \$100 plus the card charge of the 3 percent, so you will pay \$103. It becomes transparent and clear to everyone.

And if the consumer feels that it's worth saving the \$3, they can change cards. They can get down to the cash price or the debit price and the actual cost of transparency becomes more clear and it becomes more of a challenge to raise those costs to our merchants. They found in other countries, it reduces the costs to the merchants and the consumers.

SENATOR KISSEL: Thank you very much, Mr. Chair.

SENATOR DOYLE: Thank you.

Any further questions from the committee?

Thank you.

EDWARD LEVINE: Thank you.

SENATOR DOYLE: Thank you for coming.

EDWARD LEVINE: Thank you.

SENATOR DOYLE: I appreciate your knowledge on this.

EDWARD LEVINE: Any questions please feel free to contact us.

SENATOR DOYLE: Thank you very much.

Next speaker is Jay Zelermeyer then Tom Falik, Stan Sorkin, David Bauer, Ken Carney and Scott Ferguson.

Mr. Zelmeyer.

JASON ZELERMYER: Senator Doyle, Representative

HB5908
HB6453

ROBERT HEFFERNAN: Thank you.

SENATOR DOYLE: The next speaker, Rafie Podolsky.
Ben Zimmer, Brian Johnson, Peter Foote, Bill
Ethier, Tim Phelan, Kevin Pimentel.

Rafie Podolsky.

RAPHAEL PODOLSKY: Thank you, Mr. Chairman.

My name is Raphael Podolsky. I'm a lawyer with the Legal Assistance Resource Center in Hartford. I'm here to speak in favor of Senate Bill Number 440, House Bill 5045 and House Bill 5607. These are the bills that say gasoline stations have to treat debit payments the same way as cash.

I want to give you a little history on this because I was involved in 2008 when this bill was -- when the existing statute was modified and it raised this issue. Before 2008 it's my understanding that gasoline stations could not have multiple prices because there, the companies, the gasoline companies themselves would write into their contracts a prohibition against charging for credit cards in particular, a differential price.

The way that was handled is the way we always expect it to be handled, the cost to the retailer of the use of a card was built into the overhead. It's built into the price of the gasoline and there's a two-way subsidy. It is not one subsidizing the other. The reason is credit is extended or debit cards are allowed to be used because it builds volume for the company. As you build volume you can get your per-unit cost down lower.

So there's sort of a back-and-forth subsidy between cash and credit, not a one-way subsidy.

And a simple way to test that is if it costs more money to have credit cards, gasoline stations would just say we don't take credit cards because it hurts us; we're losing money if we take credit cards, and that's not what happens. The volume is critical to get the customer.

In any event, in 2008 the statute was modified so as to say that those contracts could not be enforced in Connecticut. In other words, the gasoline company could not prohibit retail stores from having a differential price.

I actually testified on that, though. I testified against that bill, actually, but the discussion of debit cards came out at the public hearing. And Representative Christopher Stone, who was then cochair of the committee, put into the final bill on the floor a reference to debit cards for the purpose of making sure that debit would be treated as cash. He talked to me about how -- about the difference and who was affected and why.

As it turns out, the language that was written -- which I did not write -- was in the best circumstance ambiguous. And so that that's where the phrase "debit card" came into the statute, but it was not interpreted by the Department of Consumer Protection as saying that debit had to be the same as cash. It was interpreted as meaning you could have a separate price for debit cards, which was never the intent of that language.

In any event, the result is we now have -- we leave it to -- basically, we left it to the seller, the retailer to decide whether they wanted to lump debit with credit or debit with cash, or have a third price if they wanted to.

As a matter of policy I think we want debit to be treated as cash. This is -- we are trying to protect consumers here. Consumers believe that debit is not -- first of all, debit is not credit. It is absolutely not credit. So from the consumer perspective, what they pay with a debit card they're taking money right out of their bank account and handing it to the retailer.

Second of all -- I'll try and be quick here. Second of all, it's led to misleading advertising because if you see a sign that says, cash or credit, and you're paying with a debit card why would you expect that it's going to be -- you're going to be charged the credit card price. And then as it's been brought out in the hearing, in fact debit cards cost less to the retail dealer than does a credit card.

I have attached to my written testimony some language that might -- I'm sure there are multiple ways to write this bill out, but on the backside of my written testimony a suggested language that would clarify what I believe was intended in 2008 and would spell out the fact that you really have two categories, a credit card category and an everything else category. And you don't have multiple, you know, three or four or five different prices you could charge.

I hope very much you would move this forward and thank you for the opportunity to testify.

SENATOR DOYLE: Thank you.

Representative Orange.

REP. ORANGE: Thank you, Rafie, for explaining all that to us. I thought I was getting old and decrepit here and wasn't remembering correctly

as to what we were thinking and when it actually was. And you're saying it was 2008?

RAPHAEL PODOLSKY: I believe so.

REP. ORANGE: And -- right. And I think that there is a, somewhat of a misunderstanding, not only with myself, but with the consumers that debit was meant to be the same as cash. And that's what you're saying and I'm so happy that you gave us the history so that if we move forward we have the resource of correction.

RAPHAEL PODOLSKY: Thank you.

SENATOR DOYLE: Thank you.

Any further comments from the committee or questions?

Representative Aman.

REP. AMAN: Yeah. Just quickly, I think my concern is when that was passed I think most of us, including myself did not know that the banks were charging a fee to the merchant, or at least it wasn't well-publicized. What would be your opinion of a gas station that said, cash, credit card, debit, keep it in your own pocket?

RAPHAEL PODOLSKY: I'm not quite sure I understand what you're saying.

REP. AMAN: That had a price for cash. You could pay with cash or you could pay with a credit card, but don't give me one of your credit cards, because I have to get the cash price and I'm not going to absorb the loss.

RAPHAEL PODOLSKY: I don't think that would be a good idea if that's --

REP. AMAN: Well, whether you think it's a good idea, would you think that is a legal thing for a gas station to do under your proposals?

RAPHAEL PODOLSKY: I actually don't know the answer to that question. I don't think there's anything in state law that would prevent that. I don't know if there's anything in federal law that would prevent that, and that's the reason I'm kind of resisting answering the question yes or no. I don't know what federal law says on that subject and so I don't know.

REP. AMAN: Where would you see the gas station making up that fee that they are now paying to the bank if they have to give a cash discount? Somewhere that 39 cents we heard earlier has got to come from. Where do you expect that to come from?

RAPHAEL PODOLSKY: It will go into overhead. It will be priced out over all the gasoline. I mean, there are plenty of gas stations out there now that don't use separate prices. And it's actually interesting because I've done little mini studies, I guess maybe less than scientific, that I think tends to show when people were talking about a discount for, you know, you get a 5, 6 or 10 percent discount; there's some reason to believe you're not getting a discount when you have that price differential. In fact, what you're doing is you're paying a surcharge for use of a credit card, which is actually illegal in Connecticut.

The Connecticut law distinguishes between cash discounts and credit card surcharges. And the reason that there is at least suspicion for that is you would expect that if a gas -- if you had two gas stations next to each other or down the block, and one has only one price for everybody and one has a cash price and a credit

price with a differential, you would expect that that single price gas station is probably going to come out somewhere in between the two prices.

It turns out when you look, at least in the reviews I did, that the two-priced gas station has a cash price that's approximately equal to the single price and a credit price that's somewhat -- that that's where the margin is or most of the margin is there. And that makes one suspicious as to whether there isn't an add-on being imposed for using a credit card. But it also says gasoline stations -- they manage before 2008, you've got loads of stations that are managing with the one-price system now.

So -- and the way they do it is it goes into their total overhead. And they -- I mean, that's the way all businesses run. There are all sorts of costs that may (inaudible). You know, you run a store. There may be different costs. You may be able to individualize to some extent what costs are imposed on you by particular customers, but the overwhelming majority of those are just built into the price of doing business. It does affect the ultimate price, yes. I would think that's true.

REP. AMAN: I'm just afraid that by doing this we are going to hurt the very people you're trying to help, the lower-income person who is living on their debit cards, but that's obviously a difference in our opinion.

RAPHAEL PODOLSKY: No. I don't think -- I actually don't think that at all. And I think that -- I don't think that and I don't think that's what anybody is seeing. And I think that, you know, you really -- you are really now charging -- a person who does not carry cash --

Low-income neighborhood people don't like to walk around with large amounts of money in their pocket. A debit card allows you to limit yourself to cash, but to pay with plastic and not carry the cash. Those people are now paying what's essentially a surcharge as if they were borrowing the money when they're not borrowing the money. And I think you -- that, I really think you ought to fix. It's not fair. It's not fair to anybody.

REP. AMAN: If you were -- what would be your opinion if we rewrote the bill and said that the bank either could not charge any fees on a debit card so the merchant could charge it to their customer?

So that 39 cents, I buy \$10 worth of gasoline and instead of the 39 cents being paid by the gas station when I got my debit it would be \$10.39 against my checking account.

RAPHAEL PODOLSKY: Well, first of all we can't regulate the banks. We can't regulate national banks and so there's a limited ability that you could have to do that even if you wanted to.

The second of all, I mean, certainly if the banks -- and some banks are starting to do this. I mean, if banks start putting on surcharges to their customers for using a debit card they will push people not to use the debit card and I don't think that's a desirable policy.

I don't think there's any -- I don't know that we can stop them from doing that, but I certainly wouldn't want to adopt a state law that essentially encouraged people to be charged for using a debit card which is really a charge to get your own money out of the bank.

There is a huge difference between a debit card which is not a loan and borrowing money from your bank. And I don't know. I'm a little bit offended by the notion that banks think it's okay to encourage you to put money in the bank then tell you to get it back out you've got to pay. It's your money. So I don't think that's a good policy that we would want to encourage, even if we could do it.

And the debit card people are being penalized in this structure when they're not part -- when they're not allowed to have a cash price at a retailer.

SENATOR DOYLE: Okay. Thank you.

Any further questions from the committee?
Seeing none, thank you.

RAPHAEL PODOLSKY: Thank you very much.

SENATOR DOYLE: The next speaker Ben Zimmer. Is Mr. Zimmer here? It does not appear so.

Is Brian Johnson here? Peter Foote, Bill Ethier, Tim Phelan, Kevin Pimentel.

Brian Johnson.

BRIAN JOHNSON: Good afternoon, Chairman Doyle and Baram and Senator Witkos and members of the General Law Committee. My name is Brian Johnson. I am a resident of Hartford, Connecticut and I am here today on behalf of the nearly 600,000 AARP members in Connecticut to support Proposed House Bill Number 5345, AN ACT CONCERNING HOMEMAKER COMPANION AGENCIES AND CONSUMER PROTECTION.

AARP is a nonpartisan nonprofit social welfare

167
mb/rgb/gbr GENERAL LAW COMMITTEE

February 21, 2013
1:00 P.M.

how to select a reputable contractor, we have some language in there about making sure you have a good contract.

You know consumers, everything is negotiable. So if you sign a contract you should be bound by it. The way the bill is written it's also one-sided. The clause, if there is one, is unenforceable against the consumer, but what if the contractor doesn't like the outcome? It is enforceable against the contractor. We don't think that's very fair.

REP. BARAM: Thank you.

SENATOR DOYLE: Thank you.

Any further questions? Seeing none, thank you very much.

WILLIAM H. ETHIER: Thank you.

SENATOR DOYLE: The next speaker, Tim Phelan, Kevin Pimentel.

TIMOTHY PHELAN: Good afternoon Senator Doyle, Representative Baram, Senator Witkos, other members of the General Law Committee. It's a pleasure to be with you this afternoon. It's my maiden voyage of the 2013 session, so thank you.

HB5607

HB5264

I know the afternoon is drawing to a close soon, so I wanted to talk very briefly about two subject matters, one that you've heard a lot of testimony about -- and I was hoping my friend Representative Esposito would be here, but maybe he'll come back and we can talk a little bit about another bill in particular that he has.

Before I begin, just for the record I'm Tim

Phelan, President of the Connecticut Retail Merchants Association. CRMA is a statewide trade association representing some of the world's largest retailers as well as the state's Main Street merchants.

And I know you've heard a lot of testimony today on the treatment of the debit cards and the subject, although it's limited to gas stations, there are some important facts that we'd like to try to lay out to help as we move along in this process. And while we understand the intent of the bill, we're happy here to be here to be here today to support them. Unfortunately due to action that's taken on a federal level we have to oppose them.

For simple background purposes you should know that our association, along with our national trade association allies have been working hard on the issues of credit card fees for a number of years. Credit card fees are currently unregulated as credit card companies have the ability to charge retailers any fees that they deem appropriate.

However we were successful in getting Congress to enforce some regulation of debit card fees, the so-called Durbin Amendment forced the Federal Reserve Board to examine costs behind debit card fees and make recommendations to the card companies. The end result of the process by the Fed was that debit fees are set at a floor price of the acceptance of debit fees. That is not in line with the costs of acceptance of cash or checks.

So while we would welcome the chance to have debit fees on the same cost as cash or checks, and that was our hope that the Federal Reserve would do that, currently that's not the case. So any legislation like that that's before you

today were to become law, it would cost retailers more money to treat debit like cash or like checks.

So I'd be happy to expand on that and any further -- any questions if you'd like.

And then finally, if I could in the indulgence of the chairs, just comment briefly on Representative Esposito's bill on the return of defective products? This committee and the General Assembly adopted a bill probably four or five years ago that clearly -- that made retailers clearly and conspicuously notice their return policies at a prominent place within the store.

HB5264

And we think that that's the best approach, policy approach to dealing with customers' complaints about retailers and returns. And we are direct to customers. If a customer doesn't like our return policy they're going to shop someplace else.

The bill that my friend Representative Esposito has introduced would place, in our opinion, a barrier in between us and our customers. We think the current law that says that you have to post your return policy is sufficient. And then there's also the Department of Consumer Protection that can handle any outstanding complaints between consumers and retailers.

Thank you.

SENATOR DOYLE: Thank you.

Any questions by the committee? Seeing none, thank you very much.

WILLIAM H. ETHIER: All right. Thank you.

170
mb/rgb/gbr GENERAL LAW COMMITTEE

February 21, 2013
1:00 P.M.

SENATOR DOYLE: The next speaker is Kevin Pimentel.
Is Kevin here? Yes, he is. Then Abner Burgos,
Daniel Senet and Chris Herb.

KEVIN PIMENTEL: Good evening. My name is
Kevin Pimentel with Connecticut-based Xtra Mart
Convenience Stores and I'm here in opposition
to Senate Bill 440, House Bills 5045, 5607 and
6205. These are bills regarding debit card
purchases at convenience stores and gas
stations.

Yes, this is more debit card testimony.
Because there's been so much testimony on this
topic and a lot of issues and perspectives have
been covered, I'll be real brief.

For retailers debit cards are not the same as
cash. Retailers pay a fee when consumers use
debit cards. A debit card transaction is
similar to a credit card transaction; result in
retailers being charged a fee by the processor.
Banks promote debit card use to consumers as
fee free and that is fee free to consumers
only. Retailers pay fees for consumers' use of
debit cards.

If we are forced to offer the cash discounts to
fee-based users like -- the likely consequence
would be a reduction or elimination of the cash
discount amount, resulting in increased pricing
to loyal cash customers. As it stands now we
are not, as gas marketers, we are not obligated
to offer cash discounts. In fact, there are
very many retailers out there today that still
do not. They have one price posted out on the
street. So if a customer goes to their
location, pays for cash, they pay the same
price -- that non-fee transaction, they pay the
same price as that credit or debit card fee'd
transaction.

But offering cash discounts, what that does is it offers the retailer an opportunity to extend something to the customers. It gives the customer the opportunity, an option to lower their fuel price. They can pay less by paying with cash.

If they pay with cash, as we've already stated, there's no fee associated with that. Those cash customers that always used to pay cash, they now all of a sudden have a windfall. They instantaneously have a reduction to their price. So that's a win. That's -- to me, that seems very good for everyone. I'm not sure why we would want to argue that, that fact.

Quite simply, to the retailer plastic is plastic and cash as cash. If there's fees associated with the plastic it does not make sense to extend a cash prize to a customer that is -- and which we are incurring some fees.

On another note, House Bill 6205, I'm going to talk very briefly about that. This is the bill that addresses the \$75 hold, and as addressed in other testimony, that simply is not an issue that we are even able to address. We don't have any control whatsoever about the hold or regarding the hold. We can't determine how long that hold is there. It is an issue that, quite frankly, is directed towards the wrong industry.

Thank you very much for your time. Any questions?

SENATOR DOYLE: Thank you.

Senator Witkos.

SENATOR WITKOS: Thank you, Mr. Chairman.

177
mb/rgb/gbr GENERAL LAW COMMITTEE

February 21, 2013
1:00 P.M.

like this, a lot of times federal trumps us and prohibits the State from doing anything in this situation. But you know, the hold, I don't think that's a bill before us today actually. And if it was it really is more properly for the banks committee. But it's a problem; I'm not denying it.

A VOICE: (Inaudible.)

SENATOR DOYLE: Oh, it does have a hold. Okay.

Any further questions? Seeing none, thank you.

KEVIN PIMENTEL: Thank you very much.

SENATOR DOYLE: The next speaker is Abner Burgos.
Is Abner here?

A VOICE: He left.

SENATOR DOYLE: He left? Daniel Senet. Chris Herb.

CHRIS HERB: Good afternoon. My name is Chris Herb. I'm the Vice President of the Connecticut Energy Marketers Association. We're here today in opposition to S.B. 450, H.B. 5045, H.B. 5607, H.B. 6205. We are also here in support of -- imagine that, a speaker in support of a bill here today -- 324. I'm not going to speak to our support of that. I'm going to defer my comments to a speaker that will come after me from Local 777.

SB440

I almost wasn't going to testify because I thought we had this wrapped up in the first hour, but there's so much to deal with. I don't know where to start.

First of all, I think we've established debit is not free. I think everyone understands that one, and that even when debit is used, it

depends on there are different fees associated with different cards that are used. This is a banking issue. Your comments -- or -- were going to be my entire testimony -- is that what we've been discussing here today has nothing to do -- the retailer of gas stations are so far downstream we have no decision. We don't put holds on accounts. We don't establish debit fees. We don't establish credit these.

What we do do, and what you were discussing was cash discounts. Some retailers do it. There's no law that requires that they're offered. I filled up yesterday in Waterbury and paid cash and received a discount off of the price.

What I can say, in previous testimony you heard that debit users and cash users where cash discounts are not offered are being -- paying a higher price. I can tell you after the industry -- when the industry brought the cash discount language to the Legislature that passed into law maybe four or five years ago, consumer protection did an investigation shortly after the law passed to determine whether or not surcharges were being charged or cash discounts were being offered or where cash discounts weren't being offered, that those customers were being charged a higher price, a surcharge for credit or debit.

And that investigation showed that that was not happening in the marketplace. They took several different -- and I'll let them speak to the specifics of it -- but they took several different markets and the study determined that nobody was charging a surcharge. So when you pay cash it's a blended price typically.

There's 1400 gas stations; vibrant competition. You cannot -- they're not talking to each other. They're competing with each other.

There is no way you could get away with charging the absolute highest price and expecting that consumers are -- every consumer at every gas station is going to pay the highest price. What they have to do is protect themselves against the fees they are being charged by banks and credit card processors and it's a blended price.

I think there was some suggestions earlier that maybe if we did treat debit as cash that maybe the stations that do offer cash discounts would maybe offer less of a cash discount. Well, I would disagree with that. I would think that, number one, it wouldn't be fair when a retailer determines that they want to offer a cash discount, that if debit was treated as cash because now we have established -- and I don't think anyone disagrees that debit does carry a fee that those cash purchasers should have to pay a higher price. That in my mind would be -- we would be forcing higher prices on consumers. So I think that the -- we understand the problem, but you've targeted the wrong industry.

And by the way, every consumer product that's sold at every retailer throughout the state has the same situation, whether you pull out cash, credit or debit. It seems like we're focused on gas stations on a problem that is caused upstream from us and we would urge you to reject all those bills. There's not much that we can do at our end of it to adjust this problem.

SENATOR DOYLE: Thank you.

And I'll just point out -- I almost said it earlier, but the gas industry has the pleasure of seeing every consumer once a week basically and they see their prices going up and down.

And that's why there's so much direct concern to the legislators.

And the consumers hit us up with more issues. If you go -- somebody mentioned a hotel. People go to a hotel once or twice a year. Every week we go there and the consumers see it and they come right to us, so that's why -- I mean, you understand it, but that's the truth of the matter.

Any questions from the committee?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

Just quickly. Do you know if any other states treat debit like cash and have any law like is being proposed today?

CHRIS HERB: I am unaware of any other states that do that.

REP. BARAM: Thanks.

SENATOR DOYLE: Thank you.

Any further questions? Seeing none, thank you very much.

Okay. At this point in time the next 11 people are speaking on -- they're all in favor of the same bill, 5149.

I don't know if it's possible we can kind of come up together and kind of present a united front. I mean, I can't force you to do that, but it's all -- it's getting -- the hour is getting a little late and I don't know if people want to somehow --



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GENERAL LAW COMMITTEE

By Michael J. Fox, Executive Director

***Gasoline & Automotive Service Dealers of America, Inc.
Connecticut Based Trade Association Representing Gasoline Retailers,
Independent Automotive Repair Shops, Towing Operators and Car Washes***

February 21, 2013

Co-Chair Senator Paul R. Doyle
Co-Chair Representative David Baram
Vice-Chair Senator John Fonfara
Vice-Chair Representative David Kiner

General Law Committee:

GASDA represent 450 members and they are responsible for selling over 60% of all gasoline sold in Connecticut. Over the last 5-years, GASDA members have purchased approximately 300 locations from the Major Oil Companies. This has kept jobs here in Connecticut rather than selling locations which end up for other than service station use and prevent the ranks of the unemployed from growing further at a time when the state can least afford more unemployment claims!

We are submitting testimony opposing proposed Senate Bill 196, AA restricting Credit Holds, proposed Senate Bill 440, AAC Debit Card Purchases, proposed House Bill 5045 & 5419, and 5607 all these bills deal with having Debit Card transactions at the cash price when cash discounts are offered.

These bills, while the intentions are good are directed at the wrong part of our industry. Service station and Convenience Store owners/operators do not set the rules and policies for credit holds or fees charged for using credit cards. In fact, our industry has filed a joint class action lawsuit seeking the right to negotiate some of these fees and policies and this lawsuit has met with huge opposition from the likes of Visa, MasterCard and the banks who issue these cards.

Bills of a similar nature came before this committee last year. They were defeated and nothing has changed. We still pay fees on debit card purchases and this is the reason why the discount offered can only be for the cash price or that cash price will be higher to consumers to offset these fees.

Addressing SB-196, retailers have no control over credit holds but it is my understanding that these credit holds are part of the rules of a credit card and are fully disclosed to consumer. It is also my understanding that any laws on credit card holds, fees etc. must be done at the Federal Level and the States cannot enact laws on Credit Card Companies such as Visa, MasterCard and American Express. We wish you could, but Federal Law is Federal Law.

Prior to the Discount for Cash Law being passed GASDA, Jobbers and the Department of Consumers Protection all worked together. This was to insure that a sticker was placed, which consumers, easily could read, and so they are fully aware of what they have to do in order to receive a discount for cash. Our industry went further and the sticker shows that Debit Cards will be charged at the Credit Price. See picture of sticker here.

Once Connecticut passed this law, in less than one year Discount for Cash also became Federal Law and has provided for discounts for consumers across the entire country, not just Connecticut. We respectfully request this is a good law providing consumers with choices, business owners with the ability to offset huge credit card fees and has been working since passed. Those that seek to expand the law are well intentioned, but business owners will quickly stop offering Discount for Cash.

February 21, 2013

Co-Chair Paul R. Doyle

Co-Chair David A. Baram

Senator Kevin D. Witkos

Representative Dan Carter

Members of the General Law Committee:

I am submitting this testimony on behalf of family-owned Hendels, Incorporated located in Waterford, CT. I appreciate being afforded the opportunity to testify in opposition to S.B. No. 440, H.B. No. 5045 and H.B. No. 5607, all of which would force retailers like our family-owned business to **absorb debit card fees which are imposed upon us by major banks such as JP Morgan Chase and Citibank, and credit/debit card companies like Visa/Mastercard.**

Should you determine that users of debit cards should not have to pay the fees imposed upon retailers by the Too-Big-To-Fail banks and Visa/Mastercard, then you should **legislate against those responsible for, and benefiting from, those fees—not those organizations like ours who are at the bottom of this business “food chain” upon whom these fees are imposed!**

We would be delighted if debit cards were free. But they are not. All we are doing is retrieving from the user of a debit card the fee which the big banks/credit card companies charge us! We are not making one single penny for accepting debit cards.

If any of these bills were to pass, our locally-owned business will be forced to increase the price of gas for all purchasers, which will then hurt cash-paying customers and discourage us as well as our competitors from offering cash discounts. Talk about a law having unintended harmful consequences!

However well-intended these bills may be, they are extremely misguided.

Thank you for considering this written testimony.

Doug Hendel

PS 19 LN. 20

P 26



February 21, 2013

Co-Chair Paul R. Doyle
Co-Chair David A. Baram
Senator Kevin D. Witkos
Representative Dan Carter

General Law Committee:

We are submitting testimony in opposition to S.B. 440, AN ACT CONCERNING DEBIT CARD PURCHASES OF GASOLINE, H.B. 5045, AN ACT CONCERNING CASH DISCOUNTS FOR GASOLINE AND DEBIT CARD PAYMENTS, H.B. 5607, AN ACT CONCERNING RETAIL DISCOUNTS AND METHODS OF PAYMENT and H.B. 6205, AN ACT CONCERNING DEBIT TRANSACTIONS BY CONVENIENCE STORES AND GAS STATIONS.

The Connecticut Energy Marketers Association (CEMA) [formerly the Independent Connecticut Petroleum Association (ICPA)] represents 576 petroleum marketers and their associated business in Connecticut. ICMA members employ over 13,000 people in our state. Our members own, operate and distribute fuel to more than 1,000 gasoline stations in our state.

While we understand the intention of this legislation, the problem that they propose to solve is aimed at the wrong industry. Gasoline station operators do not set fees that are assessed when motorists pay for fuel with a debit card.

Debit card fees are established by banks and credit card processing companies. Your local gasoline station has no roll in setting the fees that are assessed when a debit card is used. If passed, S.B. 440, H.B. 5607 and H.B. 5045 would require local gas stations to incur the costs that debit cards carry with them.

Debit is not the same as cash, and the law currently recognizes that. State law allows gasoline retailers to offer discounts when consumers use cash to purchase fuel. If debit cards were required by law to be treated the same as cash, retailers might choose to abandon cash discounts to avoid the potential cost of being required to treat costly debit transactions the same as cash.

Since banks and other fiduciaries charge fees when debit cards are used, we would ask that you to look upstream to where the fees originate to determine how to address this issue. Gas station operators have no control over the costs

associated with the use of debit cards and would be made to suffer financial harm if these bill were to pass into law.

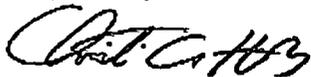
H.B. 6205 would require convenience stores and gas stations to deduct only the exact amount of a debit transaction from a consumer's bank account, rather than placing a hold or tentative transaction in excess of the exact amount. Again, the amount of money that is held when a consumer uses their debit card is determined by their bank.

Gasoline station operators have no roll in placing a "hold" on their customer's bank account when they buy fuel with their debit card. Even if this bill passed into law, gasoline station operators have no way to deal with the issue that this bill attempts address.

Since gasoline station operators do not charge fees for debit card transactions and have no ability to place a hold on a customers account when they use their debit card to purchase gas we ask that you reject these bills.

CEMA asks that the General Law Committee to oppose S.B. 440, AN ACT CONCERNING DEBIT CARD PURCHASES OF GASOLINE, H.B. 5045, AN ACT CONCERNING CASH DISCOUNTS FOR GASOLINE AND DEBIT CARD PAYMENTS, H.B. 5607, AN ACT CONCERNING RETAIL DISCOUNTS AND METHODS OF PAYMENT and H.B 6205, AN ACT CONCERNING DEBIT TRANSACTIONS BY CONVENIENCE STORES AND GAS STATIONS.

Respectfully,



Christian A. Herb
Vice President



P 23

PS-19 W-22

Testimony Submitted By:

Kevin Pimental, Xtramart Convenience Stores of North Grosvenordale, CT

To the General Law Committee

February 21, 2013

RE: S.B. 440, H.B. 5045, H.B.5607, and H.B. 6205, Bills before the General Law Committee Regarding Debit Card Purchases

Good afternoon, my name is Kevin Pimental of Xtramart Convenience Stores. I am here in opposition to S.B. 440, House Bills. 5045, 5607, and 6205, bills regarding debit card purchases at convenience stores and gas stations.

For retailers, Debit cards are NOT the same as Cash. Retailers pay a fee when consumers use Debit cards. A Debit card transaction, similar to a Credit Card transaction, results in Retailers being charged a fee by the processor. Banks promote Debit Card use to Consumers as fee-free, that is, fee-free to consumers only. Retailers pay fees for the consumers' use of Debit cards.

Since Retailers incur fees for Debit as well as Credit Card use, many offer a "Discount for Cash" to consumers who tender cash. If we are forced to offer the Cash Discount to fee-based users, the likely consequence would be a reduction of the Cash Discount amount, resulting in increased prices to loyal cash customers. Quite simply, to the Retailer, plastic is plastic and Cash is Cash.

These bills seek to equate debit card purchases with cash purchases, precluding the retailer from distinguishing between these two types of transactions. However well-intentioned the proponents of these bills may be, the two payment types are, from a cost perspective for the retailer, fundamentally different.

While it is true that debit cards provide consumers with convenience when making purchases, that convenience comes with a price. In the case of debit cards, merchants must pay a fee each time that debit card is processed regardless of the amount purchased. Pursuant to passage of the Dodd-Frank Wall Street Reform Act, the Federal Reserve released a final rule on June 29, 2011, that sets the Debit transaction fees. For an industry with low profit margins and high environmental compliance costs such as the retail gasoline industry, these costs are significant. Legislation such as S.B. 440, H.B. 5045 and H.B. 5607, would hurt Connecticut businesses and should not be adopted.

H.B. 6205 requires convenience stores and gas stations to deduct only the exact amount of a debit transaction from a consumer's bank account rather than placing a hold in excess of the exact amount. This proposal asks fuel retailers to address issues beyond their control. When a consumer uses a debit card at the pump, the store owner has no idea how much gas the consumer is about to pump. Reserves are created by the consumer's bank, not the Retailer. In order to avoid a consumer pumping an amount that could exceed their current bank account balance, a hold is used. Once the gas is paid for, the store owner has no control on how long or when that hold is released by the issuing bank. The station derives no benefit, financial or otherwise, from any hold period. It is simply an issue that the store owner cannot address.

Thank you very much for the opportunity to testify before you today. I'm happy to try to answer any questions you may have.

P 24

February 21, 2013

Co-Chair Paul R. Doyle
Co-Chair David A. Baram
Senator Kevin D. Witkos
Representative Dan Carter

General Law Committee:

My name is Abner Burgos-Rodriguez, I work for a family owned gasoline distributor located in Bridgeport. I am here today in **opposition to S.B. 440, AN ACT CONCERNING DEBIT CARD PURCHASES OF GASOLINE, H.B. 5045, AN ACT CONCERNING CASH DISCOUNTS FOR GASOLINE AND DEBIT CARD PAYMENTS, H.B. 5607, AN ACT CONCERNING RETAIL DISCOUNTS AND METHODS OF PAYMENT and H.B. 6205, AN ACT CONCERNING DEBIT TRANSACTIONS BY CONVENIENCE STORES AND GAS STATIONS.**

There are a few facts that we need to establish so you can understand why we are opposed to these bills. The first fact is debit card transactions are not free. Banks and credit card companies charge us a fee when our customers use their debit card to buy gas.

The second fact is debit card fees are established by banks and credit card processing companies.

The third fact is that any "holds" that are placed on our customers accounts when they use their debit card is done by their bank.

Finally, the most important fact is that gasoline station operators have nothing to do with setting debit card fees or placing holds on a customer's bank account! We can not negotiate these rates, we do not profit from any fees that are charged and we have no control whatsoever on how banks and credit card processing companies assess debit card users with these charges.

It would be unfair to expect local family owned gasoline retailers to have to eat the fees that debit cards carry with them. We only make pennies per gallon and being forced to pay bank fees could erode many retailers margins to nothing.

Ultimately, legislation like this may lead to higher gas prices to offset debit card costs or it may eliminate some retailers from offering cash discounts to their customers. Either way motorists would end up paying more.

Passing laws about debit card transactions that are aimed at the gasoline industry misses the target. We have no control when it comes to these issues and we ask that you reconsider the approach you are taking to find a solution. Dealing with the institutions that are responsible for debit transactions and not gas station owners may help you get the answers that you are looking for.

I urge the committee to oppose S.B. 440, AN ACT CONCERNING DEBIT CARD PURCHASES OF GASOLINE, H.B. 5045, AN ACT CONCERNING CASH DISCOUNTS FOR GASOLINE AND DEBIT CARD PAYMENTS, H.B. 5607, AN ACT CONCERNING RETAIL DISCOUNTS AND METHODS OF PAYMENT and H.B. 6205, AN ACT CONCERNING DEBIT TRANSACTIONS BY CONVENIENCE STORES AND GAS STATIONS.

I would be happy to answer any questions you may have.

Thank you.

Respectfully,
Abner Burgos-Rodriguez
Marketing Manager
Standard Petroleum Co.
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S.B. 440, H.B. 5045, H.B. 5607

Gasoline purchases made by debit card

General Law Committee public hearing -- February 21, 2013

Testimony of Raphael L. Podolsky

Recommended Committee action: JOINT FAVORABLE

Prior to 2008, national gasoline companies could prohibit their Connecticut gasoline stations from charging different prices for payment by cash or credit. In 2008, at the urging of the retail gasoline industry, the legislature amended C.G.S. 42-133ff to permit differential charges for cash and credit purchases. However, it specifically inserted the phrase "debit card" into the statute so as to require that payment by debit card be priced the same as payment by cash, check, or other similar means. Thus, C G S. 42-133ff authorizes price discounts only "to induce such buyer to pay by cash, debit card, check or similar means" "rather than" by credit card. Unfortunately, the wording of the section was ambiguous, and the Department of Consumer Protection read it as permitting differential prices for each category -- cash, check, and debit. As a result, it has refused to stop gasoline stations from charging the credit price to purchasers using debit cards.

These bills make clear that debit purchases must be treated the same as cash. We support them for the following reasons:

- * Debit card payments do not involve credit. They are functionally the same as cash. Unlike a credit card, in which the cardholder borrows money to pay a bill, a debit card merely withdraws the debtor's money from the debtor's own bank account. It is essentially a method for using plastic to pay with cash.
- * Surcharging debit cards defeats the very purpose for using debit cards. That purpose is to pay bills out of existing funds, with no accumulation of debt, without having to carry around large sums of money.
- * Extensive misleading advertising by retail gasoline station compounds the problem. Notwithstanding DCP regulations to the contrary, gas stations routinely advertise a "credit" price and a "cash" price without disclosing that debit will be charged the same as credit, not the same as cash. This is plainly misleading, since no credit extension is involved in a debit card purchase. Similarly, it is not reasonable to expect a consumer paying by debit card to know that he or she is subject to a surcharge for using "credit."

(continued on reserve side)

- * Surcharging debit card purchases is in conflict with important government programs for lower-income residents. The government either requires or actively promotes the use of debit cards for the receipt of welfare benefits, unemployment compensation, Social Security, Title IV-D child support, and similar matters. It particularly affects those without bank accounts, who tend to be especially poor.
- * It is immaterial that retailers may pay a fee for processing debit card payments through the credit card network. Most costs associated with inducing more customers to buy from a retailer are treated as overhead and built into the cost of the product. Their propriety should be judged from the perspective of the consumer. Regardless of what interchange fees the retailer may pay, the customer is not paying with credit.

Recommended language for fully drafted bill:

Subsection (c) of Section 42-133ff is repealed and the following is substituted in lieu thereof

(c) Nothing in this section shall prohibit any seller from offering a discount to a buyer to induce such buyer to pay by cash, debit card, check or similar means, rather than by credit card, provided that such discount is offered equally to buyers paying by cash, debit card, check or similar means. In furtherance of the legislative findings contained in section 42-133j, as amended by this act, no existing or future contract or agreement shall prohibit a gasoline retailer or distributor from offering a discount to a buyer based upon the method of payment by such buyer for such gasoline. Any provision in such contract or agreement prohibiting such retailer or distributor from offering such discount is void and without effect as contrary to public policy

2/21/2013

Co-Chair Paul R. Doyle
 Co-Chair David A. Baram
 Senator Kevin D. Witkos
 Representative Dan Carter

PS: 10 P4
 LN. 11

General Law Committee:

Hi, my name is Christine Hogan, I reside in Fairfield CT. I am the vice president of Consumers Petroleum/Friendly Service Stations headquartered in Trumbull CT.

We distribute petroleum throughout Connecticut and New York. We also own and operate 18 of our own convenience/gas stations.

I am opposed to SB 440, HB 5045, HB 5607 and HB 6205.

Asking retailers to charge the same for debit as cash is not reasonable because these transactions incur a fee.

I have attached the fee schedules for CITGO, Sunoco, BP and Gulf. As you can see the transaction come with a fee – these are referred to as PIN debit.

An example of this using the BP schedule:

Gallons purchases	15
Price per gallon	<u>3.59</u>
Total sale	\$53.85

Fee calculation:

	53.85
	<u>X .30 %</u>
	\$.16
Flat fee	<u>.23</u>
Total fee	.39

As you can see for one sale of 15 gallons of gas we have to pay \$.39, this may not seem like a lot but debit represents close to 30% of our transactions. We simply can not afford this fee.

As a branded distributor of petroleum products, I cannot “shop” my fees. I am contractually obligated to process transactions through their network. We do not asses the fees, we are simply told how much they are.

I hope my testimony today helps you understand the complication nature of the fees and how they are assessed.

Thank you for your time.

BP Credit Card Processing Fees

As of October 23rd, 2012		Rate	
Card Type	Transaction Type	Transaction Card Fee	% of Sale Card Fee
BP Proprietary Cards			
• BP Visa	Electronic	\$0.13	0.00%
• BP Consumer Card	Electronic	\$0.13	0.00%
• BP Fuel Card	Electronic	\$0.13	0.00%
• BP Fuel Card Plus	Electronic	\$0.13	0.50%
• BP Cash (Prepaid)	Electronic	\$0.05	0.00%
• BP Branded Marketer	Electronic	\$0.15	1.60%
• BP Universal	Electronic	\$0.15	1.60%
Third Party Cards			
• American Express	Electronic	\$0.15	2.35%
• Discover	Electronic	\$0.20	1.95%
• Visa Credit	Electronic	\$0.20	1.95%
• Visa Signature	Electronic	\$0.25	0.50%
• MasterCard Credit	Electronic	\$0.20	1.95%
• MasterCard Signature	Electronic	\$0.25	0.50%
Third Party Fleet Cards			
• Voyager	Electronic	\$0.45	2.15%
• Wright Express	Electronic	\$0.45	2.15%
• Fleet One	Electronic	\$0.45	2.15%
• Visa Fleet	Electronic	\$0.45	2.15%
• MasterCard Fleet	Electronic	\$0.45	2.15%
Third Party PIN Debit			
• PIN Debit	Electronic	\$0.23	0.30%
Rewards Cards			
• BP Cards and Codes	Electronic	\$0.10	0.00%
Paper Tickets	Manual	CPT + \$0.50*	% by card type
*\$0.50 fees is in addition to regular % of sale and CPT fees on respective card type			



CITGO Payment Card Processing Fees
Effective July 1, 2012

CITGO PAYMENT CARD FEES LIGHT OIL MARKETERS			CITGO PAYMENT CARD FEES MYSTIK & UNBRANDED PROGRAM		
Description	% Fee	Transaction Fee	Description	% Fee	Transaction Fee
POS Transactions			POS Transactions		
CITGO Plus	None	None	N/A	N/A	N/A
CITGO CELEBRITY					
CITGO Business					
CITGO Business Select	None	\$0.70	N/A	N/A	N/A
CITGO Business Select MC	2.50%	\$0.05			
CITGO Gift Card	None	None			
FuelLinks	None	None			
VISA	1.70%	\$0.15			
MasterCard	1.70%	\$0.15			
American Express	3.25%	N/A			
Discover/Novus	3.00%	N/A			
VISA Fleet	3.00%	\$0.10			
MasterCard Fleet					
Wright Express/PHH					
Voyager					
Debit (Online)*	0.85%	\$0.15	VISA	1.70%	\$0.15
Other Payment Card Fees			Other Payment Card Fees		
Network Access Fee	\$75 Per Month		N/A	N/A	
Stand-Alone POS System Rental	\$60 Per Month		Stand-Alone POS System Rental	\$60 Per Month	
Monthly Activity Fee	\$2 Per Month		Monthly Activity Fee	\$2 Per Month	

GULF CREDIT CARD FEES

VISA	1.70% + \$.15
MASTERCARD	1.70% + \$.15
DISCOVER	2.50% + \$.10
AMERICAN EXPRESS	2.75% + \$.10
DEBIT	1.75% + \$.20
Gulf MasterCard	NO FEE
GULF PROPRIETARY CARD	NO FEE
GULF GIFT CARD	NO FEE
GULF BUSINESS CARD	1%
GULF ENHANCED FLEET FUELING CARD	2.95% + \$.10
GULF UNIVERSAL FLEET FUELING CARD	2.95% + \$.10
VOYAGER CARD	2.95% + \$.10
WRIGHT EXPRESS CARD	2.95% + \$.10

2012 Sunoco Debit/Credit Retailer Fees

<u>Card Type</u>	<u>New Fee – Effective 3/1/2012</u>
Sunoco Consumer	None
Sunoco Gift Cards	None
Sunoco Rewards/Rewards Plus	None
Visa Signature Debit	0.50% + \$0.30
Visa Credit	1.75% + \$0.22
MasterCard Signature Debit	0.50% + \$0.30
MasterCard Credit	2.00% + \$0.14
Discover	2.00% + \$0.175
American Express	2.35% + \$0.28
PIN Debit	0.40% + \$0.30

<u>Card Type</u>	<u>New Fee</u>
Sunoco Corporate	None
Sunoco SunTrak	1.05% + \$0.36
Sunoco Wright Express Universal	2.07% + \$0.165
Wright Express	2.50% + \$0.165
Voyager	2.95% + \$0.155
Fleet One	2.75% + \$0.16

Note: Sales less than \$5.00 have a reduced rate of the Percentage component + \$0.10 for all card types.

P3A

n e c s a
 New England Convenience Store
 Association

CONNECTICUT
 CHAPTER

PS. 6 LN: 23

Testimony Submitted By:
 Cathy Barber, NECSA CT Chapter
 To the General Law Committee
 February 21, 2013

RE: S.B. 440, H.B. 5045, H.B. 5607, and H.B. 6205
 Bills before the General Law Committee Regarding Debit Card Purchases

Chairman Doyle, Chairman Baram and members of the committee, thank you for the opportunity to submit testimony in respectful opposition to S.B. 440, H.B. 5045, H.B. 5607, and H.B. 6205, bills before the General Law Committee regarding debit card purchases at convenience stores and gas stations.

Since all of these bills deal with the process of making debit card purchases, it is my hope that by providing you with testimony today covering issues raised in all of these bills, I can avoid making duplicate statements and taking up too much of the Committee's time. My name is Cathy Barber and I am the Chairperson of the Connecticut Chapter of the New England Convenience Store Association. We represent convenience and fuel stores throughout Connecticut.

These bills seek to equate purchases made with a debit cards with cash purchases and preclude the retailer from distinguishing between these two types of transaction. **However well-intentioned the proponents of these bills may be, the two payment types are, from a cost perspective for the retailer and banks, fundamentally different.** The merchant incurs a fee when a consumer uses a Debit card; this is not a free transaction nor is it the same as a Cash transaction for Retailers.

While it is true that debit cards provide consumers with convenience when making purchases, that convenience comes with a price which is incurred by the Retailer. In the case of debit cards, Retailers must pay a flat fee plus a percentage of the sale to the processor each time that debit card is processed regardless of the amount that is purchased. Pursuant to passage of the Dodd-Frank Wall Street Reform Act, the Federal Reserve released a final rule on June 29, 2011, that set the fees at 21 cents per transaction, plus 0.05% of the transaction's value, and an additional one cent per transaction to pay for card security compliance to card brand standards. **For an industry with low profit margins and high environmental compliance costs such as the retail gasoline industry, these costs are significant.** For these reasons, we respectfully suggest that legislation such as S.B. 440, H.B. 5045 and H.B. 5607, bills which would require these transactions ignore the true cost to the Retailer, would hurt Connecticut businesses and should not be adopted. The proposals could, in fact, hurt the true cash customer as well, forcing cash customers to share in the burden of Debit card fees.

H.B. 6025, seeks to require convenience stores and gas stations to deduct only the exact amount of a debit transaction from a consumer's bank account rather than placing a hold in excess of the exact amount. This asks fuel retailers to address issues beyond their control. We are merchants, gasoline vendors. We have no relationship with consumers' banks or Debit providers. **When a consumer uses a debit card at the pump, the store owner has no idea how much (or little) gasoline the consumer is about to pump. In order to avoid a consumer pumping an amount that could exceed their current bank account balance, a dollar limit or hold is used by the consumer's bank.** Once the gas is paid for, the store owner has no control over how long or when that hold is released by the issuing bank. **The station derives no benefit, financial or otherwise from any hold period. It is simply an issue that the store owner cannot address.**

Thank you very much for the opportunity to testify before you today. I'm happy to try to answer any questions you may have.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**GENERAL
LAW
PART 3
580 - 891**

2013

PS-13 LN: 10 P 8

HB-5607 AN ACT CONCERNING RETAIL DISCOUNTS AND METHODS OF PAYMENT.

My name is Edward Levene, I am President of Energy Advantage, Inc. a Norwalk Connecticut company.

Placing additional barriers on Connecticut businesses to compete reduces economic activity and Connecticut jobs.

Connecticut should encourage marketplace transparency and economic activity by allowing both discounts and the pass-through of actual fees associated with each type of transaction.

Connecticut merchants have seen an ever increasing cost of Credit Card acceptance. Our Merchants have had little choice but to accept the rules and fees to accept Credit Cards effectively transferring the rising cost of Credit Card acceptance away from the Connecticut economy.

The Connecticut Consumers that do not have access to credit cards or the benefits of rewards cards are financially supporting a system that embeds the costs of credit card acceptance in the purchase price.

The current system which fosters a scenario in which those least able to pay are effectively paying more for products and services can be improved with minor policy adjustments

The lower acceptance costs of paying by cash and regulated debit card transactions are not currently reflected in the prices set by merchants. The most economically challenged Connecticut consumers that must pay with cash and debit cards are paying more for goods and services in Connecticut compared to Connecticut consumers that pay with reward credit cards or cash back cards after the cash back and rewards value are taken into account.

The current system that forces those least able to pay to pay more for products and services can and needs to be corrected

Technology is available that allows merchants to automatically identify and calculate the fees associated to the actual cost of acceptance for a particular transaction. Consumers and merchants in Connecticut should be permitted to use the technology to create transparent costs of transactions and allow those that pay with less expensive methods to see lower prices.

Consumers and merchants will both be able to lower the cost of the transaction and save money. In order to charge less to customers who are less expensive to do business with, merchants need to be able to charge the appropriate amount to all consumers.

Instead of restricting either discounts or pass-through fees, Connecticut should permit the actual costs of any transaction to be charged to a customer as a clearly disclosed amount that is separate from the cost of merchandise.

We have draft changes available to accomplish these goals if desired.

Sec. 42-133ff. Pass-through fees and discounts expressly permitted.

- a) Pass-through fees that are based on the cost of acceptance for any payment method and are no higher than a seller's cost of acceptance for the particular payment method are expressly permitted. Discounts for payment type are not prohibited. Contracts are not to prohibit pass-through fees or discounts that reasonably reflect the cost of acceptance of various payment methods. Merchants who charge pass-through fees in any sales transaction must conspicuously disclose the charging of such fees at the point of purchase and must display the pass-through fee as a separate line item on a receipt or invoice provided to the purchaser.
- b) No seller may impose a surcharge on a buyer who elects to use any method of payment, including, but not limited to cash, check, credit card or electronic means, in any sales transaction where the surcharge is a greater amount than the difference between the seller's cost of acceptance for the method of payment and the seller's average cost of acceptance of regulated debit cards. Cost of acceptance for a payment method shall include Interchange fees, Issuing Bank fees, Gateway fees, Merchant Service Provider fees and any other fees that a seller pays for processing a particular method of payment.
- c) Nothing in this section shall prohibit any seller from offering a discount to a buyer to induce such buyer to pay by cash, debit card, check or similar means rather than by credit card. In furtherance of the legislative findings contained in section 42-133j, no existing or future contract or agreement shall prohibit a gasoline retailer or distributor from offering a discount to a buyer based upon the method of payment by such buyer for such gasoline. Any provision in such contract or agreement prohibiting such retailer or distributor from offering such discount is void and without effect as contrary to public policy.
- d) Nothing in this section shall prohibit any seller from conditioning acceptance of a credit card on a buyer's minimum purchase. Each seller shall disclose any such minimum purchase policy orally or in writing at the point of purchase. For the purposes of this subsection, "at the point of purchase" includes, but is not limited to, at or on a cash register and in an advertisement or menu.