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House BILL NO. *488*

INTRODUCED BY *Ream Bishop* *Melna Kittel*

Storall *Brianne C. ...* *... Halligan*

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING AN OWNER OF AN AUTOMATED TELLER MACHINE FROM IMPOSING A SURCHARGE ON A CUSTOMER WHO USES THE MACHINE; AND AMENDING SECTION 32-6-104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 32-6-104, MCA, is amended to read:

"32-6-104. Consumer information -- restrictions on automated teller machine surcharges. (1) A financial institution or its affiliate engaging in electronic funds transfers with its customers shall, prior to authorizing a customer to make electronic funds transfers, provide the customer with an itemized statement clearly setting forth, without limitation:

- (a) the specific transactions that may be performed through satellite terminals;
- (b) the charges, if any, for individual transactions made through a satellite terminal;
- (c) minimum balance requirements, if any;
- (d) the liability of the various parties for unauthorized transactions made by electronic funds transfer, with special emphasis upon the liability when the customer makes a personal identification number readily available for discovery in connection with theft or loss of the unique identification device and upon the importance of immediate notification to the institution of theft or loss;
- (e) the legal status of receipts issued from a satellite terminal;
- (f) the right of the customer to a description of transactions performed by satellite terminal on any periodic statement of account furnished the customer;
- (g) the right of the customer to seek correction of an error that the customer believes has been made in the customer's account by electronic funds transfer;
- (h) instructions in maintaining customer records and reconciling balances and in the importance of retaining receipts of electronic funds transfers; and
- (i) the economic significance of having no "float" time and no stop-payment authority.

(2) The customer shall then sign a statement acknowledging acceptance of these terms and

1 conditions and give the statement to the financial institution. A copy of the statement, countersigned by
2 an officer of the financial institution, must be provided to the customer. In addition, the information set
3 forth in subsection (1)(d) must be specifically acknowledged by the customer. The customer shall verify
4 acknowledgement by signing the customer's initials immediately adjacent to the information provided.

5 (3) The owner of an electronic terminal that is not an automated teller machine may impose a
6 surcharge for the use of its electronic terminal. The owner of an electronic terminal that elects to impose
7 a surcharge for ~~the its use of its electronic terminal~~ shall clearly advise the user of the electronic terminal,
8 by a conspicuous disclosure on the electronic terminal or through a message displayed on the electronic
9 terminal screen, of the exact amount of the surcharge. The user must then be provided the option either
10 to cancel the transaction, without incurring the surcharge, or to complete the transaction subject to the
11 surcharge.

12 (4) The owner of an automated teller machine may not impose a surcharge for the use of the
13 automated teller machine.

14 ~~(4)(5)~~ A merchant or person other than a financial institution that issues a unique identification
15 device to its customers for use at a point-of-sale terminal and that provides to the holders of the unique
16 identification device a disclosure that satisfies the initial disclosures of terms and conditions under
17 Regulation E of the federal Electronic Fund Transfer Act is considered to be in compliance with the
18 disclosure requirements of this section."

19 -END-