

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.