

Minnesota State Legislation

Minn. Stat. §325G.051

Subdivision 1. Limitation; prohibition. (a) A seller of goods or services may impose a surcharge on a purchaser who elects to use a credit card in lieu of payment by cash, check, or similar means, provided (1) the seller informs the purchaser of the surcharge both orally at the time of sale and by a sign conspicuously posted on the seller's premises, and (2) the surcharge does not exceed five percent of the purchase price. (b) A seller of goods or services that establishes and is responsible for its own customer credit card may not impose a surcharge on a purchaser who elects to use that credit card in lieu of payment by cash, check, or similar means.

(c) For purposes of this section "surcharge" means a fee or charge imposed by a seller upon a buyer that increases the price of goods or services to the buyer because the buyer uses a credit card to purchase the goods or services. The term does not include a discount offered by a seller to a buyer who makes payment for goods or services by cash, check, or similar means not involving a credit card if the discount is offered to all prospective buyers and its availability is clearly and conspicuously disclosed to all prospective buyers.

Subd. 2. Penalty. A seller who violates this section is subject to a civil penalty of not more than \$500 and shall refund the surcharge to each buyer.

Federal Legislation

"EFTA Sections 920(b)(2) and (3) impose certain limits on the ability of payment card networks to restrict merchants and other persons in establishing the terms and conditions under which they may accept payment cards. Specifically, EFTA Section 920(b)(2) prohibits a payment card network from establishing rules that prevent merchants from offering discounts or in-kind incentives based on the method of payment tendered to the extent that such discounts or incentives do not differentiate on the basis of the issuer or payment card network". -**Federal Registrar, Volume 76, No. 139, July 20, 2011.**

Caveats:

Part II Federal Reserve System 12 CFR Part 235 Debit Card Interchange Fees and Routing; Final Rule Caveats: "a discount for use of debit or credit cards does not discriminate on the basis of the issuer or network and any discount insofar as required by other applicable law is offered to all customers and is conspicuously disclosed and prohibits networks for penalizing retailers for providing discounts that are permitted by federal and state law"

Further Reading: "Section 920 of the EFTA also addresses discounts at the point of sale and transaction minimums. Specifically, section 920 prohibits networks from inhibiting the ability of merchants to provide discounts or in-kind incentives for payments by cash, check, debit card, or credit card". -Board of Governors



MINNESOTA

for the Central Reserve System, Compliance Guide to Small Entities, Regulation II: Debit Card Interchange Fees and Routing 12 CFR 235 “Discounts to Customers. A PCN cannot stop you from offering your customers a discount or another incentive for using a certain method of payment, as long as you offer it to all your customers and disclose the offer clearly and conspicuously. For example, you can offer your customers a discount or a coupon if they pay with cash or a debit card rather than a credit card”. -Federal Trade Commission Facts for Business, New Rules on Electronic Payments Lower Costs for Retailers