SENATE COMMERCE COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 4284

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 15, 2023

The Senate Commerce Committee reports favorably and with committee amendments Assembly Bill No. 4284 (2R).

As amended, this bill prohibits a seller from imposing on a customer who uses a credit card for a transaction occurring in New Jersey a surcharge greater than the actual cost to the seller to process the credit card payment.

Under the bill, a seller that imposes a surcharge on a customer to process a credit card payment is to disclose the existence of the surcharge to the customer before the customer incurs any charge for goods or services by providing verbal notice to the customer and by posting clear and conspicuous notice on a sign at the point of entry and point of sale, and for any restaurant, on a sign in the customer service area and on the menu. However, if the seller is processing a credit card payment for a transaction that will occur through an Internet website or mobile application, the seller is to provide clear and conspicuous electronic notice on the checkout page of the Internet website or mobile application prior to processing the transaction. Or, if the seller is processing a credit card payment for a transaction that will occur over the telephone, the seller is to provide verbal notice before processing the transaction.

The bill defines "surcharge" to mean any additional amount imposed by a seller at the time of a credit card transaction that increases a charge to a customer for the use of a credit card. In addition, the bill defines "goods" to exclude motor fuel.

A violation of the bill's provisions is an unlawful practice under the consumer fraud act. An unlawful practice is punishable by a monetary penalty of not more than $10,000 for a first offense and not more than $20,000 for any subsequent offense. In addition, a violation can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages, and the awarding of treble damages and costs to the injured party.

As amended and reported by the committee, this bill is identical to Senate Bill 3508, as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee amended the bill to stipulate that, if the seller is processing a credit card payment for a transaction that will occur through an Internet website or mobile application, the seller is to provide clear and conspicuous electronic notice on only the checkout page of the Internet website or mobile application prior to processing the transaction and not on the website homepage and the checkout page.