

CHAPTER 146

AN ACT concerning credit card surcharges and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.56:8-156.1 Definitions.

1. As used in this act:

“Credit card” means a card, plate, charge card, charge plate, or other single credit device that may be used from time to time to obtain credit.

“Goods” means any beverage, chattels, foodstuffs, products, or wares of any type or description but shall not include “motor fuel.”

“Motor fuel” means any combustible liquid or gaseous substance used, or suitable, for the generation of power to propel motor vehicles.

“Restaurant” means an establishment in which the principal business is the sale of food or beverages for consumption on or off the premises.

“Seller” means a person who sells, leases, or rents goods or services to a customer.

“Surcharge” means 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.

C.56:8-156.2 Surcharge, greater than actual cost to seller to process credit card payment, prohibited.

2. a. A seller shall not impose on a customer who uses a credit card for a transaction occurring in New Jersey a surcharge that is greater than the actual cost to the seller to process the credit card payment. A seller subject to the provisions of P.L.2023, c.146 (C.56:8-156.1 et seq.) shall make available to the Director of the Division of Consumer Affairs in the Department of Law and Public Safety for inspection any account books, papers, documents, and other records necessary to enable the director to determine reasonable compliance with the provisions of P.L.2023, c.146 (C.56:8-156.1 et seq.).

b. A seller that imposes a surcharge on a customer to process a credit card payment shall disclose the amount of the surcharge to a customer, prior to the customer incurring any charge for goods or services, by, in the case of a seller other than a restaurant, posting clear and conspicuous notice on a sign at the point of entry and point of sale or, in the case of a restaurant, on a sign in the customer service area and on the menu, except:

(1) if the seller is processing a credit card payment for a transaction that will occur through an Internet website, a mobile application, or an electronic kiosk, the seller shall provide clear and conspicuous electronic notice on the checkout page of the Internet website, mobile application, or electronic kiosk prior to processing the transaction; or

(2) if the seller is processing a credit card payment for a transaction that will occur over the telephone, the seller shall provide verbal notice prior to processing the transaction.

c. A violation of this section is an unlawful practice pursuant to P.L.1960, c.39 (C.56:8-1 et seq.).

3. This act shall take effect immediately.

Approved August 18, 2023.