

The Honorable Donna Bailey, Senate Chair  
The Honorable Lori Gramlich, House Chair  
Joint Standing Committee on Health Coverage, Insurance, and Financial Services  
100 State House Station  
Augusta, ME 04333

Re: LD 151, An Act to Allow Businesses to Impose a Surcharge on Credit Card and Debit Card Transactions; and

L.D. 1031, An Act to Allow Time-share Associations to Charge Credit Card Surcharges

Dear Senator Bailey, Representative Gramlich, and Members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services:

American Express appreciates this opportunity to comment in strong opposition to LD 1031 and LD 151. These bills attempt to dismantle the state's longstanding ban on imposing surcharges on credit card transactions. American Express is deeply concerned that removing this consumer protection would adversely impact Maine residents and businesses.

American Express firmly believes that surcharging offers no benefits to consumers and that allowing uncapped credit card surcharges will likely result in significant pricing distortions and harmful, unintended consequences. Credit cards are now essential tools in everyday commerce. Individual consumers and small business owners would all face immediate exposure to potentially excessive surcharges if this ban is lifted.

Surcharging would subject consumers to additional costs on virtually all transactions, from routine gasoline purchases to larger expenses related to car repairs, medical care, childcare, or housing. This is particularly concerning for timeshare owners, who could face substantial unexpected surcharges on their already significant maintenance and assessment payments. Situations where alternative payment methods are impractical or impossible, such as online purchases or after-hours gasoline transactions, would leave consumers with no choice but to pay these surcharges.

It is important to recognize that all payment methods, including cash, carry associated acceptance costs for merchants. Credit card users should not be unfairly singled out to bear these costs when users of other payment forms are not. Additionally, merchants derive significant value from the fraud protection and guaranteed payment that credit cards provide. In addition, retailers have the option of offering cash discounts to consumers.

Furthermore, surcharges could compound through multiple levels of transactions (for example, the credit card purchase of inventory by a retailer from a wholesaler), creating a pyramiding effect. Unrestricted surcharging would directly impact the financial stability of small business owners who rely on commercial credit cards to fund their operations and would have the potential for additional cost being passed on to consumers in the form of surcharges. In short, the potential consequences of this legislation could be far-reaching for Maine consumers who have been protected from these burdens for decades.

Although some recent court challenges have contested similar state laws prohibiting credit card surcharging, Maine's statute remains valid and beneficial. Should you decide to advance this measure despite these concerns, American Express strongly urges you to maintain robust consumer protections by requiring clear advance disclosure when surcharges apply and strictly limiting the allowable surcharge percentage. Incorporating these safeguards into statute would help ensure that if surcharging is permitted, it is implemented in a manner that protects individual consumers and small businesses from unfair practices in the marketplace.

Sincerely,

Kelley Gossett

American Express