

A bill for an act
relating to commerce; preventing unfair business practices by credit and debit
card companies; proposing coding for new law as Minnesota Statutes, chapter
325O.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **TITLE.**

This act may be cited as the Minnesota Credit and Debit Card Fairness Act.

Sec. 2. **[325O.01] DEFINITIONS.**

Subdivision 1. **Terms.** For purposes of sections 2 to 8, the terms defined in this
section have the meanings given.

Subd. 2. **Debit card.** "Debit card" means a card or payment device issued by a
financial institution and containing a magnetic stripe, microprocessor chip, or other means
for storage of or access to information that allows the user to obtain, purchase, or receive
credit, money, a good, a service, or anything of value through the transfer of funds from
the transaction account associated with the device.

Subd. 3. **Electronic payment system.** "Electronic payment system" means an
entity that: (1) directly, or through licensed members, processors, or agents, provides
the proprietary services, infrastructure, and software that route information and data to
facilitate transaction authorization, clearance, and settlement; and (2) merchants access
in order to accept a specific brand of general purpose credit cards, charge cards, debits
cards, or store-value cards or devices as payment for goods or services. A merchant is
not an electronic payment system.

Subd. 4. **Financial institution.** "Financial institution" means an office of a bank, bank and trust, trust company with banking powers, savings bank, industrial loan company, savings association, credit union, or regulated lender.

Subd. 5. **Merchant.** "Merchant" means a person or entity doing business in this state that offers goods or services for sale in this state.

Subd. 6. **PIN.** "PIN" means a personal identification code that identifies the cardholder.

Subd. 7. **PIN-enabled debit card.** "PIN-enabled debit card" means a debit card that enables a person or entity that accepts such cards in connection with a transaction to prompt the cardholder to provide the PIN associated with the card when conducting a transaction and to conduct the transaction as a PIN debit transaction. To comply with this section, a PIN-enabled debit card must be physically and electronically identifiable as a PIN-enabled debit card, and have the capability to access at least one regional PIN debit network that is widely available statewide.

Subd. 8. **Signature-enabled debit card.** "Signature-enabled debit card" means a debit card that: (1) enables a person or entity that accepts such cards in connection with a transaction to authorize the transaction by means of an approved signature; (2) is physically and electronically identifiable as a signature-enabled debit card; and (3) has the capability to access at least one regional signature debit network that is widely available statewide.

Sec. 3. **[3250.02] PROTECTION OF RETAIL COMPETITION FROM CREDIT AND DEBIT CARD UNFAIR PRACTICES.**

With respect to transactions involving merchants in this state, no electronic payment system may, directly or through any agent, acquirer, processor, or member of the system:

(1) impose a requirement, condition, penalty, or fine in a contract with a merchant relating to the display of pricing for goods or services for sale by the merchant;

(2) inhibit the ability of a merchant to offer its customers discounts or in-kind incentives for using, or to otherwise express a preference for or promote the use of, a form of payment such as cash, check, debit card, or credit card or any other form of payment device;

(3) inhibit the ability of a merchant to offer its customers discounts or in-kind incentives for using, or to otherwise express a preference for or promote the use of, a payment card of another electronic payment system;

(4) inhibit the ability of a merchant to offer its customers discounts or in-kind incentives for using, or to otherwise express a preference for or promote the use of, a

particular product over another within the electronic payment system product suite, such as a standard credit card as opposed to a rewards or platinum credit card;

(5) prevent a merchant from setting a minimum or maximum dollar value for its acceptance of a payment card product;

(6) inhibit the ability of a merchant to decide not to accept the products of an electronic payment system at one or more of its locations;

(7) prevent a merchant from deciding not to accept certain products of an electronic payment system while still accepting other products of that electronic payment system;

(8) prevent a merchant from choosing how to route a transaction; or

(9) inhibit the ability of a merchant to communicate to consumers the cost incurred by the merchant when a consumer uses a particular electronic payment system, type of product within that electronic payment system, or other form of payment.

Sec. 4. [3250.03] DEBIT CARDS; PIN-ENABLED AND SIGNATURE-ENABLED REQUIREMENT.

(a) A financial institution shall not issue a debit card to a resident of this state unless the card is both a PIN-enabled debit card and a signature-enabled debit card. Nothing in this section prohibits an issuer from disabling the PIN functionality or the signature functionality on a debit card at the cardholder's request.

(b) A financial institution shall not impose a surcharge, fee, or other penalty on a cardholder in connection with a debit card transaction for the purchase of goods or services that discriminates between PIN and signature transactions.

(c) A person or entity that accepts an access device in connection with a transaction may choose to use either PIN or signature processing.

EFFECTIVE DATE. This section is effective 30 days after final enactment.

Sec. 5. [3250.04] PENALTIES.

(a) An electronic payment system found to have violated section 3250.02 shall reimburse all affected merchants for all fines related to the prohibitions described in section 3250.02 which were collected from affected merchants directly or through any agent, processor, or member of the system during the period of time in which the electronic payment system was in violation, and is liable for a civil penalty of \$10,000 per fine levied in violation of section 3250.02.

(b) A financial institution found to have violated section 3250.03 is liable for a civil penalty of \$10,000 per debit card issued in violation of section 3250.03.

4.1 (c) A merchant whose rights under section 325O.02 have been violated may
4.2 maintain a civil action for damages or equitable relief as provided for in this section,
4.3 including the costs of the action, together with attorney fees, if any.

4.4 (d) A merchant or cardholder whose rights under section 325O.03 have been violated
4.5 may maintain a civil action for damages or equitable relief as provided for in this section,
4.6 including the costs of the action, together with attorney fees, if any.

4.7 (e) The attorney general may investigate any alleged violation of section 325O.02 or
4.8 325.03 and, having reasonable cause to believe that a violation is imminent, is occurring,
4.9 or has occurred, the attorney general may institute on behalf of the state, any of its
4.10 departments and agencies, or any of its political subdivisions a court action seeking
4.11 appropriate relief. The investigatory authority of the attorney general under section
4.12 325O.04 includes, but is not limited to, the authority provided for in section 8.31.

4.13 (f) In determining the amount of award in a class action, the court shall consider,
4.14 among other relevant factors, the amount of any actual damages awarded, the frequency
4.15 and persistence of failures of compliance by the issuer, the resources of the issuer, the
4.16 number of persons adversely affected, and the extent to which the issuer's failure of
4.17 compliance was intentional.

4.18 (g) The remedies under this section are cumulative and do not restrict any other right
4.19 or remedy otherwise available.