

HB 682-FN – AS INTRODUCED

2013 SESSION

13-1015  
08/10

HOUSE BILL           **682-FN**

AN ACT               relative to credit card fees.

SPONSORS:           Rep. Myler, Merr 10; Rep. G. Richardson, Merr 10; Rep. Arsenault, Belk 9;  
Rep. Huot, Belk 3; Rep. Shurtleff, Merr 11; Rep. Grassie, Straf 11; Rep. Ratzki,  
Merr 1; Rep. French, Merr 6; Rep. Tanner, Sull 9; Rep. Gile, Merr 27; Sen. Larsen,  
Dist 15

COMMITTEE:       Commerce and Consumer Affairs

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ANALYSIS

This bill makes it an unfair and deceptive consumer practice to impose a surcharge upon a consumer who elects to pay for goods or services with a credit card.

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Explanation:       Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT                   relative to credit card fees.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 New Section; Credit Card Surcharges Prohibited. Amend RSA 358-K by inserting after section  
2 6 the following new section:

3           358-K:7 Credit Card Surcharges Prohibited.

4           I. No person in any sales transaction shall impose a surcharge upon a consumer who elects  
5 to pay for goods or services by use of a credit card instead of making payment by cash, check, or  
6 similar means of payment.

7           II. A violation of this section shall constitute an unfair and deceptive act or practice within  
8 the meaning of RSA 358-A:2, and may be enforced by the attorney general pursuant to RSA 358-A or  
9 may be the subject of private actions pursuant to RSA 358-A:10. The consumer shall also have the  
10 remedies as set forth in 358-A:10-a.

11          2 Effective Date. This act shall take effect January 1, 2014.

## HB 682 FISCAL NOTE

AN ACT                    relative to credit card fees.

### FISCAL IMPACT:

The Department of Justice, Judicial Council and New Hampshire Association of Counties state this bill, **as introduced**, may increase state and county expenditures by an indeterminable amount in FY 2014 each year thereafter. There will be no fiscal impact on local expenditures or state, county, and local revenue.

The Office of Legislative Budget Assistant is awaiting information from the Judicial Branch relative to the potential fiscal impact of this bill. The Branch was initially contacted on 02/19/13 and most recently contacted on 08/23/13.

### METHODOLOGY:

The Department of Justice states this bill makes it an unfair and deceptive consumer practice to impose a surcharge upon a consumer who elects to pay for goods or services with a credit card. The Department states if this bill results in a significant increase in enforcement actions, such as injunctive relief or the imposition of civil or criminal penalties, additional resources would be needed. The Department has no information to determine the extent and number of enforcement actions to determine if this bill will result in the need for additional resources.

The Judicial Council states to the extent an unspecified misdemeanor results in a misdemeanor offense where the right to counsel exists this bill may result in an indeterminable increase in general fund expenditures. The Council states if an individual is found to be indigent, the flat fee of \$275 per misdemeanor is charged by a public defender or contract attorney. If an assigned counsel attorney is used the fee is \$60 per hour with a cap of \$1,400 for a misdemeanor. The Council also states additional costs could be incurred if an appeal is filed. The public defender, contract attorney and assigned counsel rates for Supreme Court appeals is \$2,000 per case, with many assigned counsel attorneys seeking permission to exceed the fee cap. Requests to exceed the fee cap are seldom granted. Finally, expenditures would increase if services other than counsel are requested and approved by the court during the defense of a case or during an appeal.

The New Hampshire Association of Counties states to the extent more individuals are charged, convicted, and sentenced to incarceration in a county correctional facility, the counties will have increased expenditures. The Association is unable to determine the number of individuals who may be charged, convicted or incarcerated as a result of this bill to determine an exact fiscal impact. The average annual cost to incarcerate an individual in a county correctional facility is approximately \$35,000. There is no impact on county revenue.