

1                                   **Senate Bill No. 499**

2                                    (By Senator Chafin)

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4 [Introduced March 12, 2013; referred to the Committee on Banking  
5 and Insurance; and then to the Committee on the Judiciary.]

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10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new section, designated §46A-6-111, relating  
12 to general consumer protection; prohibiting surcharges by  
13 sellers on credit card usage by consumers as method of  
14 payment; and requiring sellers to make clear and conspicuous  
15 disclosure of all fees otherwise charged.

16 *Be it enacted by the Legislature of West Virginia:*

17       That the Code of West Virginia, 1931, as amended, be amended  
18 by adding thereto a new section, designated §46A-6-111, to read as  
19 follows:

20 **ARTICLE 6. GENERAL CONSUMER PROTECTION.**

21 **§46A-6-111. Surcharges in payment transactions.**

22       (a) As used in this section, "credit card" means any single  
23 card, plate or other credit device that is reusable by a debtor

1 from time to time to obtain extensions of credit under a revolving  
2 credit plan. Checks, drafts and similar instruments that can be  
3 used only once to obtain a single credit extension are not credit  
4 cards.

5 (b) A seller may not impose a surcharge on a sales transaction  
6 for which the method of payment is a credit card.

7 (c) If a seller imposes fees or surcharges on sale  
8 transactions involving methods of payment other than a credit card,  
9 the seller must make clear and conspicuous disclosure of these  
10 fees.

11 (d) Any seller who accepts or offers to accept a credit card,  
12 as defined in this section, bearing a trade name as a means of  
13 payment shall accept any credit card bearing that trade name  
14 presented by a cardholder, notwithstanding the identity of the card  
15 issuer.

16 (e) Nothing in this section prohibits any seller from  
17 offering a discount to a buyer to induce the buyer to pay by cash,  
18 debit card, check or means other than by credit card. No existing  
19 or future contract or agreement shall prohibit a gasoline retailer  
20 or distributor from offering a discount to a buyer based upon the  
21 method of payment by the buyer for the gasoline. Any provision in  
22 such a contract or agreement prohibiting a retailer or distributor  
23 from offering such a discount is void and without effect as  
24 contrary to public policy.

1           (f) Nothing in this section prohibits any seller from  
2 conditioning acceptance of a credit card on a buyer's minimum  
3 purchase. Each seller shall disclose any such minimum purchase  
4 policy orally or in writing at the point of purchase, including,  
5 but not limited to, at or on a cash register and in an  
6 advertisement or menu.

NOTE: The purpose of this bill is to prohibit surcharges by  
sellers when a buyer elects to use a credit card as method of  
payment and to require sellers to make clear and conspicuous  
disclosure of fees which are otherwise charged.

§46A-6-111 is new; therefore, strike-throughs and underscoring  
have been omitted.