



KANSAS *Retail Council*

House Committee on Financial Institutions and Pensions

Testimony in Support of HB 2133

Presented by Eric Stafford, Vice President of Government Affairs

Monday, January 30, 2023

Mister Chairman and members of the committee, my name is Eric Stafford, Vice President of Government Affairs for the Kansas Chamber. The Kansas Chamber represents small, medium and large businesses of all industry segments across the state. We also serve as the state's affiliate for the National Retail Federation through the Kansas Retail Council. The Kansas Retail Council (KRC) focuses on retail business issues and gives Kansas retailers a unified voice on legislative and public policy matters.

We appreciate the opportunity to testify in support of House Bill 2133, a bill that eliminates the prohibition of a surcharge when purchases are made with a credit or debit card.

Kansas is one of four states to still have such a prohibition on the books and is one that is important for our retail members. In a U.S. Supreme Court decision *Expressions Hair Design v Schneiderman*, the Court ruled to vacate the states surcharge prohibition similar to Kansas. This opened up the opportunity for credit card surcharging in New York, California, Florida, Texas, Maine and Oklahoma. The Oklahoma AG issued an opinion stating their law would not survive scrutiny following the Supreme Court's decision.

While we believe this is a simple bill cleaning up Kansas statutes, we have had conversations with credit card companies regarding disclosure requirements of retailers choosing to pass along credit card fees to their customers. Seeking input from the advisory board of our Retail Council, we have received sufficient feedback to express our opposition to this request. While our larger retail members have stated that they do not pass those charges onto consumers. Some of our smaller retailers have also stated they will not add a credit card surcharge, while others have expressed reluctance and are uncertain on whether they will or not. In seeking further guidance, our members have brought up some good points to the proposed disclosure language.

Ultimately, is the legislature going to regulate all fees businesses charge? Will we regulate fees charged by ticket brokers that inflate the price of an advertised ticket to concerts or sporting events? Or rental cars? How about fees related to inflationary costs? Consumers are free to choose where they shop and retailers are sensitive to competition and maintaining customer satisfaction. Therefore, we believe each retailer will make their own decision on how to best protect their business and customers without the need for government intervention.

Additionally, Visa for example has the following listed on their merchants Q&A section related to credit card fees:

Q. Can I add a surcharge to card transactions?

As a result of a legal settlement to resolve claims brought by a group of U.S. merchants, merchants in the U.S. and U.S. territories may add a surcharge to certain credit card transactions, starting January 27, 2013. **Merchants who choose to surcharge must follow consumer disclosure and other requirements agreed to as part of the settlement.**

Retailers, through private contracts with credit card companies, already have disclosure requirements as outlined above. While we are attempting to clean up statute that is no longer enforceable by the outcome of the *Expressions* case, we would ask that the committee not place unnecessary disclosure mandates on Kansas retailers that are already addressed, or can be addressed, through private contract agreements between retailers and credit card companies.

Thank you for the opportunity to testify in support of HB 2133, and I am happy to answer any questions at the appropriate time.