



Aida S. Montano

Bill Analysis
Legislative Service Commission

Sub. S.B. 250*

124th General Assembly
(As Reported by H. Civil and Commercial Law)

Sens. Spada, Jacobson, Blessing, White, Goodman, Herington, Hottinger, Austria, Amstutz, Armbruster, Brady, Carnes, Randy Gardner, Robert Gardner, Harris, Mead, Nein, Oelslager, Prentiss, Mumper, Wachtmann

BILL SUMMARY

- Prohibits a person or limited liability company that accepts credit cards for business transactions from printing more than the last five digits of a credit card account number on an electronically printed receipt provided to the holder of the credit card.
- Prohibits a person or limited liability company that accepts credit cards for business transactions from printing the expiration date of a credit card on an electronically printed receipt provided to the holder of the credit card.
- Makes a violation of either prohibition an unfair or deceptive act or practice in violation of the Consumer Sales Practices Law, grants a person injured by either violation the same relief otherwise available to a consumer for violations of existing provisions of that Law, and grants the Attorney General the same powers and remedies to enforce the bill's provisions as are otherwise available in the enforcement of the existing provisions of that Law.
- Defines "credit card" for the above provisions to include without limitation a credit card, charge card, debit card, or other card, code, device, or other means of access to a customer's account for specified purposes.

** This analysis was prepared before the report of the House Civil and Commercial Law Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

CONTENT AND OPERATION

Restrictions on information contained in electronically printed receipts

The bill prohibits any person or limited liability company that accepts credit cards for the transaction of business from printing on any receipt provided to the cardholder either of the following: (1) more than the last five digits of the credit card account number or (2) the expiration date of the credit card. The bill applies only to receipts that are electronically printed and does not apply to any transaction in which the sole means of recording the cardholder's credit card account number is by handwriting or by an imprint or copy of the credit card. (R.C. 1349.18(A) and (B).)

The bill deems a violation of the bill's prohibitions an unfair or deceptive act or practice in violation of R.C. 1345.02 (prohibition against unfair or deceptive consumer sales practices under the Consumer Sales Practices Law). A person injured by such a violation has a cause of action and is entitled to the same relief available to a consumer under R.C. 1345.09 (private remedies under the Consumer Sales Practices Law) (see **COMMENT 1**). All powers and remedies available to the Attorney General to enforce the Consumer Sales Practices Law are available to the Attorney General to enforce the provisions of this bill (see **COMMENT 2**) (R.C. 1349.18(C)).

Definition of "credit card"

The bill defines "credit card" for the purposes of the bill's provisions to include, but be not limited to, a credit card, charge card, debit card, or other card, code, device, or other means of access to a customer's account for the purpose of obtaining money, property, labor, or services on credit, or for initiating an electronic fund transfer at a point-of-sale terminal, an automated teller machine, or a cash dispensing machine.

Delayed effective date

The bill has a specific effective date of July 1, 2004 (Section 2).

COMMENT

1. If a violation is an act prohibited by R.C. 1345.02, the consumer may, in an individual action, rescind the transaction or recover the consumer's damages. Any consumer also may seek a declaratory judgment, an injunction, or other appropriate relief against an act or practice that violates the Consumer Sales Practices Law. The court may award to the prevailing party a reasonable

attorney's fee limited to the work reasonably performed, if either of the following apply: (a) the consumer complaining of the act or practice that violated the Consumer Sales Practices Law has brought or maintained an action that is groundless, and the consumer filed or maintained the action in bad faith, or (b) the supplier has knowingly committed an act or practice that violates that Law. (R.C. 1345.09(A), (D), and (F)--not in the bill.)

2. The Attorney General has the power to conduct an investigation if, by the Attorney General's own inquiries or as a result of a complaint, the Attorney General has reasonable cause to believe that a person has engaged or is engaging in an act or practice that violates the Consumer Sales Practices Law. For this purpose, the Attorney General may administer oaths, subpoena witnesses, adduce evidence, and require the production of relevant matter. During an investigation, the Attorney General may afford a supplier an opportunity to cease and desist from any suspected violation and suspend the investigation. The Attorney General may terminate an investigation upon acceptance of a written assurance of voluntary compliance from a supplier who is suspected of the violation. (R.C. 1345.06(A), (B), and (F)--not in the bill.)

If the Attorney General, by the Attorney General's own inquiries or as a result of complaints, has reasonable cause to believe that a supplier has engaged or is engaging in an act or practice that violates the Consumer Sales Practices Law and that the action would be in the public interest, the Attorney General may bring any of the following: (a) an action to obtain a declaratory judgment that the act or practice violates R.C. 1345.02 or (b) an action, with notice as required by Civil Rule 65, to obtain a temporary restraining order, preliminary injunction, or permanent injunction to restrain the act or practice. On motion of the Attorney General, or on its own motion, the court may impose a civil penalty of not more than \$5,000 for each day of violation of a temporary restraining order, preliminary injunction, or permanent injunction, if the supplier received notice of the action. On motion of the Attorney General and without bond, the court may make appropriate orders, including appointment of a referee or a receiver, for sequestration of assets, to reimburse consumers found to have been damaged or to grant other appropriate relief. The remedies available to the Attorney General are cumulative and concurrent, and the exercise of one remedy by the Attorney General does not preclude or require the exercise of any other remedy. (R.C. 1345.07(A)(1) and (2), (B), and (H)--not in the bill.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-14-02	p. 1588
Reported, S. Judiciary on Civil Justice	04-25-02	p. 1724
Passed Senate (31-0)	04-25-02	p. 1728
Reported, H. Civil & Commercial Law	---	---

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