

SENATE BILL NO. 172
INTRODUCED BY MCNUTT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A FINANCIAL INSTITUTION THAT ENTERS INTO AN AGREEMENT TO SHARE OR OPERATE ELECTRONIC TERMINALS DOES NOT FORFEIT ITS RIGHTS UNDER FEDERAL OR STATE LAW TO CHARGE CUSTOMERS FEES OR WAIVE ITS OTHER RIGHTS OR OBLIGATIONS THAT EXIST UNDER STATE LAW; AMENDING SECTION 32-6-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 32-6-104, MCA, is amended to read:

"32-6-104. Consumer information -- charge for use of electronic terminal. (1) A financial institution or its affiliate engaging in electronic funds transfers with its customers shall, prior to authorizing a customer to make electronic funds transfers, provide the customer with an itemized statement clearly setting forth, without limitation:

- (a) the specific transactions that may be performed through satellite terminals;
- (b) the charges, if any, for individual transactions made through a satellite terminal;
- (c) minimum balance requirements, if any;
- (d) the liability of the various parties for unauthorized transactions made by electronic funds transfer, with special emphasis upon the liability when the customer makes a personal identification number readily available for discovery in connection with theft or loss of the unique identification device and upon the importance of immediate notification to the institution of theft or loss;
- (e) the legal status of receipts issued from a satellite terminal;
- (f) the right of the customer to a description of transactions performed by satellite terminal on any periodic statement of account furnished the customer;
- (g) the right of the customer to seek correction of an error that the customer believes has been made in the customer's account by electronic funds transfer;
- (h) instructions in maintaining customer records and reconciling balances and in the importance of retaining receipts of electronic funds transfers; and
- (i) the economic significance of having no "float" time and no stop-payment authority.

(2) The customer shall ~~then~~ sign a statement acknowledging acceptance of these terms and conditions and give the statement to the financial institution. A copy of the statement, countersigned by an officer of the financial institution, must be provided to the customer. In addition, the information set forth in subsection (1)(d) must be specifically acknowledged by the customer. The customer shall verify acknowledgement by signing the customer's initials immediately adjacent to the information provided.

(3) (a) The owner of an electronic terminal may impose a surcharge for the use of its electronic terminal. The owner of an electronic terminal that elects to impose a surcharge for the use of its electronic terminal shall clearly advise the user of the electronic terminal, by a conspicuous disclosure on the terminal or through a message displayed on the electronic terminal screen, of the exact amount of the surcharge. The user must then be provided the option either to cancel the transaction, without incurring the surcharge, or to complete the transaction subject to the surcharge.

(b) An agreement by a financial institution to share or operate electronic terminals ~~does~~ MAY not prohibit, limit, or restrict the right of the financial institution to charge a customer any fees allowed by state or federal law and ~~does not~~ OR TO require a financial institution to waive any other rights or obligations it has under the laws of this state.

(4) A merchant or person other than a financial institution that issues a unique identification device to its customers for use at a point-of-sale terminal and that provides to the holders of the unique identification device a disclosure that satisfies the initial disclosures of terms and conditions under Regulation E of the federal Electronic Fund Transfer Act is considered to be in compliance with the disclosure requirements of this section."

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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