

HOUSE BILL NO. 746

INTRODUCED BY R. FARRIS-OLSEN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO PREPAID CARDS FOR INMATE
5 RELEASE FUNDS; ESTABLISHING REQUIREMENTS FOR THE DISBURSEMENT OF FUNDS TO AN INMATE
6 RELEASED FROM A COUNTY DETENTION CENTER OR A STATE PRISON; PROHIBITING CERTAIN FEES
7 FROM BEING CHARGED TO THE INMATE; PROVIDING THAT A VIOLATION IS AN UNFAIR TRADE
8 PRACTICE; CREATING A PRIVATE RIGHT OF ACTION; AND PROVIDING DEFINITIONS."

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

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12 **NEW SECTION. Section 1. Definitions.** As used in [sections 1 through 3], the following definitions
13 apply:

14 (1) "Detention center" means a facility established and maintained pursuant to Title 7, chapter 32, part
15 22.

16 (2) "Prepaid device" means a card, code, or other means of access to a consumer's account held by a
17 financial institution or other financial services provider.

18 (3) "Release funds" means money owed by the department of corrections to an inmate or by a county
19 to an inmate and paid to the inmate on release from custody, including:

- 20 (i) funds held in an account established pursuant to 53-1-107;
- 21 (ii) "gate money" paid under 53-30-111; and
- 22 (iii) money that the inmate had in the inmate's possession at the time the inmate was taken into custody
23 and over which the inmate retains equitable title.

24 (4) "State prison" has the meaning provided in 53-30-101.

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26 **NEW SECTION. Section 2. Release of inmate funds -- limitations.** (1) A detention center or state
27 prison may not disburse release funds to an inmate by means of a prepaid device unless the detention center
28 or state prison also provides the inmate with the option to receive the release funds by cash or check.

29 (2) If a detention center or state prison disburses release funds by means of a prepaid device, neither
30 the detention center or state prison nor the issuer of the prepaid device may impose a fee payable by the inmate,

1 including but not limited to fees charged for maintaining or using the account, checking the account's balance,
2 or closing the account. The provisions of this subsection do not prohibit otherwise lawful fees charged by bona
3 fide third parties that are unaffiliated with the issuer of the prepaid device, including out-of-network fees charged
4 by the operator of an automated teller machine.

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6 **NEW SECTION. Section 3. Enforcement -- unfair trade practice -- private right of action.** (1) An
7 issuer of a prepaid device that does not comply with the provisions of [sections 1 and 2] is engaging in an unfair
8 trade practice and is subject to the provisions of Title 30, chapter 14, part 1.

9 (2) A person who suffers a loss or harm as a result of an act or practice prohibited by [section 2] is
10 entitled to recover actual damages or \$500, whichever is greater, as well as attorney fees, court costs, and any
11 other remedies provided by law.

12 (3) In addition to the remedies provided in subsection (2), a person who suffers harm as a result of an
13 act or practice prohibited by [section 2] is entitled to receive injunctive or declaratory relief.

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15 **NEW SECTION. Section 4. Codification instruction.** [Sections 1 through 3] are intended to be codified
16 as an integral part of Title 30, chapter 14, and the provisions of Title 30, chapter 14, apply to [sections 1 through
17 3].

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