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LEGISLATIVE ACTION

Senate

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House

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Floor: 2/WD/2R

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04/29/2010 09:36 AM

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Senator Baker moved the following:

1 **Senate Substitute for Amendment (695602) (with title**
2 **amendment)**

3
4 Delete lines 18 - 34
5 and insert:

6 Section 1. Section 501.0117, Florida Statutes, is amended
7 to read:

8 501.0117 Credit cards; transactions in which seller or
9 lessor prohibited from imposing surcharge; penalty.-

10 (1) A seller or lessor in a sales or lease transaction may
11 not impose a surcharge on the buyer or lessee for electing to
12 use a credit card in lieu of payment by cash, check, or similar
13 means, if the seller or lessor accepts payment by credit card. A



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14 surcharge is any additional amount imposed at the time of a sale
15 or lease transaction by the seller or lessor that increases the
16 charge to the buyer or lessee for the privilege of using a
17 credit card to make payment. Charges imposed pursuant to
18 approved state or federal tariffs are not considered to be a
19 surcharge, and charges made under such tariffs are exempt from
20 this section. The term "credit card" includes those cards for
21 which unpaid balances are payable on demand and, for purposes of
22 this section, the term also includes any prepaid device that
23 contains government benefit program funds, including, but not
24 limited to, social security, unemployment benefits, and the
25 Special Supplemental Nutrition Program for Women, Infants, and
26 Children. This section does not apply to the offering of a
27 discount for the purpose of inducing payment by cash, check, or
28 other means not involving the use of a credit card, if the
29 discount is offered to all prospective customers.

30 (2) A person who violates ~~the provisions of~~ subsection (1)
31 commits is guilty of a misdemeanor of the second degree,
32 punishable as provided in s. 775.082 or s. 775.083.

33 Section 2. Subsection (8) is added to section 817.60,
34 Florida Statutes, to read:

35 817.60 Theft; obtaining credit card through fraudulent
36 means.—

37 (8) UNLAWFUL POSSESSION OF A STOLEN CREDIT OR DEBIT CARD.—A
38 person who knowingly possesses, receives, or retains custody of
39 a credit or debit card that has been taken from the possession,
40 custody, or control of another without the cardholder's consent
41 and with the intent to impede the recovery of the credit or
42 debit card by the cardholder commits unlawful possession of a



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43 stolen credit or debit card and is subject to the penalties set
44 forth in s. 817.67(2). A retailer that takes, accepts, retains,
45 possesses, or processes a stolen credit card or debit card does
46 not commit a violation of this subsection if the retailer does
47 so in the ordinary course of business and the retailer does not
48 have actual knowledge that the credit card or debit card is
49 stolen; provided, this exception does not apply to a retail
50 employee who has actual knowledge that the credit card or debit
51 card is stolen.

52
53 ===== T I T L E A M E N D M E N T =====

54 And the title is amended as follows:

55 Delete lines 2 - 13

56 and insert:

57 An act relating to credit card crimes; amending s.
58 501.0117, F.S.; defining the term "credit card," for
59 purposes of a prohibition against certain surcharges,
60 to include any government-issued card that represents
61 a government prepaid electronic benefits transfer;
62 providing penalties; amending s. 817.60, F.S.;

63 prohibiting possession of a stolen credit or debit
64 card in specified circumstances; providing penalties;
65 providing that a retailer who takes, accepts, retains,
66 or possesses a stolen credit or debit card without
67 knowledge that the card is stolen and who is
68 authorized to process transactions by the company
69 issuing the credit or debit card does not commit a
70 violation under certain circumstances; providing an
71 exception for certain retail employees; providing an



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effective