

1 A bill to be entitled
 2 An act relating to credit and debit card crimes; amending
 3 s. 501.0117, F.S.; prohibiting a seller or lessor from
 4 imposing a surcharge on debit card transactions; defining
 5 the term "debit card"; providing nonapplicability to
 6 offers of a discount for the purpose of inducing payment
 7 by cash, check, or other means not involving the use of a
 8 debit card; providing penalties; amending s. 817.60, F.S.;
 9 prohibiting possession of a stolen credit or debit card in
 10 specified circumstances; providing penalties; providing
 11 that a retailer who takes, accepts, retains, or possesses
 12 a stolen credit or debit card without knowledge that the
 13 card is stolen and who is authorized to process
 14 transactions by the company issuing the credit or debit
 15 card does not commit a violation under certain
 16 circumstances; providing an exception for certain retail
 17 employees; providing an effective date.

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 19 Be It Enacted by the Legislature of the State of Florida:

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 21 Section 1. Section 501.0117, Florida Statutes, is amended
 22 to read:

23 501.0117 Credit cards and debit cards; transactions in
 24 which seller or lessor prohibited from imposing surcharge;
 25 penalty.—

26 (1) A seller or lessor in a sales or lease transaction may
 27 not impose a surcharge on the buyer or lessee for electing to
 28 use a credit card or debit card in lieu of payment by cash,

29 | check, or similar means, if the seller or lessor accepts payment
30 | by credit card or debit card. A surcharge is any additional
31 | amount imposed at the time of a sale or lease transaction by the
32 | seller or lessor that increases the charge to the buyer or
33 | lessee for the privilege of using a credit card or debit card to
34 | make payment. Charges imposed pursuant to approved state or
35 | federal tariffs are not considered to be a surcharge, and
36 | charges made under such tariffs are exempt from this section.
37 | The term "credit card" includes those cards for which unpaid
38 | balances are payable on demand. The term "debit card" means a
39 | card, code, or other device, other than a check, draft, or
40 | similar paper instrument, by the use of which a person may
41 | order, instruct, or authorize a financial institution to debit a
42 | demand deposit, savings deposit, or other asset account. The
43 | term "debit card" also includes a prepaid card or other means of
44 | access to prepaid funds that may be used to initiate an
45 | electronic funds transfer and may be used without unique
46 | identifying information such as a personal identification number
47 | to initiate access to prepaid funds. This section does not apply
48 | to the offering of a discount for the purpose of inducing
49 | payment by cash, check, or other means not involving the use of
50 | a credit card or debit card, if the discount is offered to all
51 | prospective customers.

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

55 | Section 2. Subsection (8) is added to section 817.60,
56 | Florida Statutes, to read:

57 817.60 Theft; obtaining credit card through fraudulent
58 means.—

59 (8) UNLAWFUL POSSESSION OF A STOLEN CREDIT OR DEBIT CARD.—

60 A person who knowingly possesses, receives, or retains custody
61 of a credit or debit card that has been taken from the
62 possession, custody, or control of another without the
63 cardholder's consent and with the intent to impede the recovery
64 of the credit or debit card by the cardholder commits unlawful
65 possession of a stolen credit or debit card and is subject to
66 the penalties set forth in s. 817.67(2). A retailer that takes,
67 accepts, retains, possesses, or processes a stolen credit card
68 or debit card does not commit a violation of this subsection if
69 the retailer does so in the ordinary course of business and the
70 retailer does not have actual knowledge that the credit card or
71 debit card is stolen; provided, this exception does not apply to
72 a retail employee who has actual knowledge that the credit card
73 or debit card is stolen.

74 Section 3. This act shall take effect October 1, 2010.