

No. 1992-36

AN ACT

HB 686

Prohibiting persons who accept credit cards for the transaction of business from requiring certain additional information from the credit cardholder; providing for enforcement of the act; and imposing civil penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Credit card.” A device or instrument which entitles the holder to obtain money, goods, services or anything of value on credit.

“Person.” An individual, corporation, trust, partnership, limited partnership, incorporated or unincorporated association or other entity.

Section 2. Requirement of information prohibited.

(a) General rule.—No person who accepts credit cards for the transaction of business shall require the credit cardholder to write on the credit card transaction form, nor shall the person write or cause to be written on the form, any personal identification information, including, but not limited to, the credit cardholder’s address or telephone number, that is not required by the credit card issuer to complete the credit card transaction, provided, however, that the credit cardholder’s address and telephone number may be required on the form where:

(1) the information is necessary for shipping, delivery or installation of purchased merchandise, warranties or service maintenance agreements, or for special orders;

(2) the person processes credit card transactions by mailing transaction forms to a designated bankcard center for settlement; or

(3) the information is necessary to comply with Federal or State law or regulations adopted pursuant thereto.

(b) Checks.—No person shall, as a condition of acceptance of a check for the purchase of goods or services, as a means of identification or for any other purpose, require that a person presenting a check produce a credit card number for recordation. No person shall record a credit card number in connection with:

(1) a sale of goods or services in which a purchaser pays by check; or

(2) the acceptance of a check.

(c) Guaranteed checks.—A credit card number may be requested and recorded as a condition for cashing a check where payment of the check is being guaranteed by the credit card issuer and all of the following conditions are met:

- (1) the person requesting the card has agreed with the issuer to cash checks as a service to the issuer's cardholders;
- (2) the issuer has agreed to guarantee cardholder checks cashed by that person; and
- (3) the cardholder has given actual, apparent or implied authority for use of his card number in this manner and for this purpose.

(d) *Construction of section.*—This section shall not be construed to prohibit a person from requesting a purchaser to display a credit card as identification. The only information concerning a credit card which may be recorded when a credit card is being used as identification and the credit card issuer is not guaranteeing payment is the type, the issuer and the expiration date of the credit card. A credit card number may be requested and recorded as a condition for cashing a check where the credit card was issued by the person accepting the check. This section does not require acceptance of a check whether or not a credit card is presented.

Section 3. Injunctive relief.

Whenever the Attorney General or a district attorney has reason to believe that any person is violating or is about to violate section 2 and that proceedings would be in the public interest, the Attorney General or a district attorney may bring an action in the name of the Commonwealth against the person to restrain, by temporary or permanent injunction, violations of section 2.

Section 4. Assurances of voluntary compliance.

In the administration of this act, the Attorney General may accept an assurance of voluntary compliance with respect to any method, act or practice deemed to be violative of this act from any person who has engaged or was about to engage in the method, act or practice. Any assurance shall be in writing and be filed with the court. The assurance of voluntary compliance shall not be considered an admission of violation for any purpose. Matters thus closed may at any time be reopened by the Attorney General for further proceedings in the public interest, pursuant to section 3.

Section 5. Civil penalties.

(a) *Violation of injunction.*—Any person who violates the terms of an injunction issued under section 3 or any of the terms of an assurance of voluntary compliance duly filed in court under section 4 shall forfeit and pay to the Commonwealth a civil penalty of not more than \$250 for the first offense and \$1,000 for the second or any subsequent offense. For the purpose of this section, the court issuing an injunction or in which an assurance of voluntary compliance is filed shall retain jurisdiction and the cause shall be continued, and, in such cases, the Attorney General or the appropriate district attorney, acting in the name of the Commonwealth, may petition for recovery of civil penalties and any other equitable relief deemed needed or proper.

(b) *Willful violations of act.*—In any action brought under section 3, if the court finds that a person is willfully using or has willfully used a method, act or practice declared unlawful by section 2, the Attorney General or the appropriate district attorney, acting in the name of the Commonwealth, may recover, on behalf of the Commonwealth, a civil penalty not exceeding \$200

per violation, which civil penalty shall be in addition to other relief which may be granted under this act.

Section 6. Effective date.

This act shall take effect in 60 days.

APPROVED—The 21st day of May, A. D. 1992.

ROBERT P. CASEY