



To: Insurance & Financial Services Committee, 124<sup>th</sup> Maine Legislature  
From: Jim McGregor, Maine Merchants Association  
Re: **Opposition** – LD 1779, An Act to Prohibit Surcharges on the Use of Debit Cards

Senator Bowman, Representative Treat and members of the Insurance & Financial Services Committee: I am Jim McGregor and I rise today on behalf of Maine Merchants Association to oppose LD 1779.

First and foremost, the bill appears to address a non-issue, or at least an issue that is not clearly defined. I have failed to find a state agency that has received a single complaint regarding the alleged practice that LD 1779 proposes to prohibit.

As merchants who accept credit or debit cards will tell you, adding a surcharge to a debit or credit card sales is expressly prohibited by their merchant agreement. It is our understanding that any merchant who would attempt to recoup the cost of processing would risk alienating their customers, in addition to violating their agreement. So, instead merchants absorb the roughly 3 % of each debit/credit transaction.

The closest I have come to finding justification for this after-deadline, presumably emergency, legislation was reflected in the attached article from the *Portland Press Herald*. It is interesting to note that the article states that the town of Scarborough has stopped accepting credit card payments for property and excise taxes, and the like, because of credit card fees; but continues to accept debit cards for the services.

I accept the sponsor's bill summary that the purpose of the legislation is to extend a surcharge prohibition to debit cards, since there's supposed to be a prohibition on surcharges on credit cards.

However, in lieu of the Scarborough decision and an attached February 22 *Kennebec Journal* article attempting to explain new, extremely complex, federal rules involving credit card charges I would suggest that there might be those who would use the sponsor's simple bill to address some of these not-so-simple matters.

Speaking of the new federal rules, David Robertson, publisher of a newsletter that tracks the credit card industry, was quoted as saying: "Jaws will drop. I don't doubt for a nanosecond that it's going to give a lot of people a sinking feeling in their stomachs."

In my 30-plus years in and around the State House in Augusta, I have become convinced that most unintended consequences occur when there is an attempt to fix something that does not appear to be broken or when some party attempts to use well-intended legislation for an unstated purpose. In attempting to determine how LD 1779 might possibly impact my retail members and consumers, I asked several different parties to speculate. Among the answers I received were (1) level the playing field because of a resurgence in the use of debit cards over credit cards (2) attempt to remedy issues in the new federal rules on a state-by-state basis (3) prepare for State Health & Human Services plans to use debit cards for several of its programs and (4) the impact fees may be having on the newly-enacted law that allows municipalities to accept cards.

Clearly, none of those speculative purposes are clearly reflected in the legislation you have before you today, but I would urge this committee to examine each of those possibilities as it considers this measure. Based on my limited understanding of the possible ramifications of LD 1779, I submit that the transparency and consumer protections proposed by the bill can only be achieved if fees at all levels of the credit/debit card chain are closely examined and weighed.

Such a thorough examination may be difficult in the remaining days of this short session, but I believe it is too important to rush. We stand at the ready to provide additional information regarding the cost to business and consumers resulting from the use of debit and credit cards. We look forward to working with this committee to find answers and develop fair solutions.

Thank you.