



KANSAS AUTOMOBILE DEALERS ASSOCIATION

February 9, 2023

To: The Honorable Jeff Longbine, Chairman and Members of the Senate Committee on Financial Institutions and Insurance

From: Don McNeely, KADA President

Re: SB 104 - AN ACT concerning financial institutions; relating to payments made with credit and debit cards; allowing a surcharge for use of such cards.

Good morning, Chairman Longbine and Members of the Committee, I am Pat Barnes, General Counsel for the Kansas Automobile Dealers Association, which represents the franchised new car and truck dealers in Kansas. On behalf of KADA, I am submitting this written testimony on behalf of the Kansas Automobile Dealers Association in support of SB 104 which would eliminate prohibition of a surcharge when purchases are made with a credit or debit card.

As you are aware credit card use is widespread and continues to be a major player in our financial lives. An Experian report shows that, on average, people have three different credit card accounts. A study by the Federal Reserve Bank of San Francisco found that in 2021, credit cards were used to make 28% of all payments.

For many retail merchants, the cost of offering credit cards is an extremely expensive operating cost. Especially retail businesses with high transactional volume and low profits per transaction, and these costs are only increasing — total credit card interchange fees collected by Visa and Mastercard more than doubled between 2012 and 2019. Some businesses handled these rising costs by refusing to accept card payments, thus limiting payment choices for their customers. Others raised their prices for all customers, forcing customers paying with cash to subsidize someone else's use of their credit card.

With Kansas being one of only 4 states left where it is still illegal for merchants to impose a credit card surcharge, some credit card processors have recently begun promoting cash discount programs as a way to pass on credit card processing fees to consumers. The programs essentially implement a service fee to those who pay their purchases with credit card, while on the other hand offers a discount to those who make payments with cash.

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The Durbin Amendment expanded on the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act by placing limits on transactional fees when using credit and debit cards to make purchases, while also protecting the rights of business owners to offer cash discounts in all 50 states. As part of this right to offer discounts, business owners must also adhere to a handful of rules to do so legally, including:

- Posting the cash discount details at the entrance and at the checkout counter.
- Clearly denoting any cash discounts on receipts.
- Posting the cash discount details at the entrance and at the checkout counter.

With credit card processors promoting cash discount programs it only makes sense to eliminate Kansas' antiquated prohibition of charging surcharge fees on credit and debit card purchase with proper disclosure of the surcharge being made at the point-of-sale prior to the completion of the transaction.

On behalf of the Kansas Automobile Dealers Association, I thank you for your consideration of our comments in support of SB 104.