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Merchants want lawmakers to regulate credit-card fees

By Dan McLean
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Legislation under consideration in Montpelier stems from an effort by a national special-interest group working to draw attention to fees credit cards charge merchants.

The state legislation, titled the Vermont Credit Card Disclosure Act of 2008, is being supported by the Washington, D.C.-based Merchants Payments Coalition Inc. -- whose membership consists of dozens of members, including the National Association of Convenience Stores, the Food Marketing Institute, the Petroleum Marketers Association of America, the American Petroleum Institute, the Vermont Grocers' Association and the National Retail Federation.

The Merchants Payments Coalition, which says it represents 2.7 million stores, provided the Vermont Grocers' Association with legislative language from another a state that resulted in the Vermont legislation, said Jim Harrison, president of Vermont's Grocers' Association.

Similar legislation is pending in several other states, the national group said.

Convenience stores -- which sell more than 80 percent of the gasoline in the country -- are being hit particularly hard by credit-card fees, said Lyle Beckwith, senior vice president of the National Association of Convenience Stores.

David Tomczak, owner of Ethan Allen Citgo on North Avenue in Burlington, stopped taking American Express within the past five months because the fees were becoming too high.

With gas prices at more than \$3 a gallon, many people use credit cards to pay for fill-ups -- and that has started to add up.

"It's just turned into a credit card society, almost. It's been getting worse and worse. And now probably 80 percent of the people use credit cards." Tomczak said.

Merchants are upset over fees they must pay to credit-card companies on each transaction, known as interchange fees.

The fees average about 2 percent of the total transaction, but business credit cards and rewards cards -- which give card holders frequent-flier miles or cash back -- charge merchants more.

"The interchange fee helps prop up the cost of the rewards program," said Tasha Wallis, executive director of the Vermont Retail Association.

The fees have increased over the past eight to 10 years, she said. Debit cards also have a fee, but it's generally a flat rate that is cheaper for merchants.

As credit card and debit card use rises, merchants say profit margins are being squeezed.

Jim Lombard, manager of Chuck's Mobil Mart in Winooski, said fees the station pays credit companies can be more than \$200 a day.

The proposed state law would mandate credit card companies supply a "complete paper copy" of the fee

rules to each merchant. The legislation, advocates said, would not lower the fees but would raise awareness on the issue and help businesses anticipate expenses.

Chris D'Elia, president of Vermont Bankers Association, who testified before the House Commerce Committee on the bill, said he understands merchants are frustrated, but the state legislation is "a bad bill because it's not going to accomplish anything."

The printed rules for some credit cards are easily more than 1,000 pages, he said, and available online.

"What's really at the root of this is, they don't like the fees," D'Elia said.
Increasing use

The use of credit cards and debit cards has skyrocketed in recent years.

From 2003 to 2006, debit-card use increased 17 to 18 percent, D'Elia said. Credit use during the same time frame increased 12 percent.

Although the Vermont law would not reduce merchants' credit fees, requiring more disclosure would help merchants make better-informed decisions, Wallis said.

"It's not going to change the world," Harrison said of the proposed Vermont law. "It's a baby step."

Rep. Warren Kitzmiller, D-Montpelier, a former retailer, said he introduced the bill because the interchange fees have been "escalating rapidly."

After realizing the state is limited in what it can do, however, Kitzmiller decided Thursday to "morph" the bill into a resolution that calls upon Vermont's congressional delegation to pursue the matter on a federal level.

Congressional hearings have been held, but no federal law has been passed regulating credit-card fees or mandating disclosure, said David Carle of Sen. Patrick Leahy's office.

"Retailers in Vermont and across the country are rightly concerned that credit-card interchange fees are a growing part of their business costs," Leahy said by e-mail Thursday.

"The system needs more transparency. ... It is unacceptable to have a system that forces smaller businesses to take a net loss to both accept credit cards and sell milk or diapers or gasoline," Leahy said.

Leahy believes interchange fees should be established through competition, and that prices set by competition are best for consumers and for retailers, Carle said that making transparency reforms is a sensible first step.

Calls to MasterCard Inc. of Purchase, N.Y., and Visa Inc. of San Francisco were returned by the Electronic Payments Coalition, the credit-card industry's Washington, D.C., lobbyists.

"The fact is that MasterCard and Visa make their rules available," said Janet Grissom, co-director of the Electronic Payments Coalition, calling the notion the fees are not disclosed "simply false."

The Vermont legislation focusing on fee disclosure is just the latest angle of attack from the Merchants Payments Coalition, Grissom said. "It's a moving target as to what the accusation is ... the bottom line is: The Merchants Payments Coalition wants price controls," she said.

Beckwith, of the Alexandria, Va -based National Association of Convenience Stores, which is a founding member of the Merchants Payments Coalition, said the goal is not to cap the fees or add regulations. "We don't want price fixing. We want to break up price fixing," he said.

"Right now the market is not functioning. The fees are being set by a duopoly," he said referring to Visa and

MasterCard. "We want the fees to be set in a free market manner."

Profits at gas stations in 2005 are the lowest they have been since 1984, according to the National Association of Convenience Stores' Web site.

"They make more off the gasoline than the retailer does ... You might as well take the Cumberland Farms sign down and put up a Visa sign," Beckwith said.

In 2005, gross margins were roughly 16 cents a gallon, the group's Web site said. But, after operating expenses -- including credit card fees of 2.5 percent to 3 percent -- profit margins were about 7 percent.

That leaves filling stations with about 2 to 3 cents in profit per gallon, Beckwith said, noting the credit companies would make at least 6 cents on a \$3 gallon of gas.

The goal, he said, is to "get the markets to function in a pure, free-market fashion."

Some in Vermont, such as Wallis, said she would like the federal government to regulate what credit-card companies can charge merchants.

"These rates have gone up and up and it's costing merchants a lot of money," Wallis said.

The Electronic Payments Coalition says merchants are paying for a service; they get more sales, greater fraud protections and faster payments through credit card and debit card sales, the group's Web site said.

"Attempts to classify such fees as a 'hidden tax' on consumers would be similar to trying to misrepresent businesses' rent or salaries for employees as a 'hidden tax' on their customers," the group said.
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