

1 H.594

2 Introduced by Representatives Harrison of Chittenden, Macaig of Williston,
3 Marcotte of Coventry, McCullough of Williston, Myers of
4 Essex, O’Sullivan of Burlington, Poirier of Barre City, and
5 Trieber of Rockingham

6 Referred to Committee on

7 Date:

8 Subject: Commerce and trade; consumer protection

9 Statement of purpose of bill as introduced: This bill proposes to create
10 business consumer protections for credit card terminal leases.

11 An act relating to business consumer protection for credit card terminal
12 leases

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 9 V.S.A. chapter 63, subchapter 9 is added to read:

15 Subchapter 9. Credit Card Terminal Leases

16 § 2482h. SOLICITATION; MATERIAL MISREPRESENTATION

17 (a) As used in this subchapter, “credit card terminal” means physical
18 equipment used at the point of sale to accept payment by a payment card,
19 including a credit card, debit card, EBT card, prepaid card, or gift card.

20 (b) A person who solicits a lease for the use of a credit card terminal:

1 (1) shall accurately disclose, orally and in writing, the nature and scope
2 of his or her relationship to the person or persons who own, lease, service, and
3 finance the equipment or provide related services, including whether he or she
4 is an employee, independent contractor, or agent of one or more of those
5 persons;

6 (2) shall accurately disclose the terms of a lease and whether oral
7 statements or commitments he or she makes to the prospective lessee while
8 soliciting a lease are included in the terms of the lease and enforceable against
9 a party to a lease; and

10 (3) shall not make a material misrepresentation to the prospective lessee
11 concerning the nature of his or her relationships pursuant to subdivision (1) of
12 this subsection or concerning a lease and its terms pursuant to subdivision (2)
13 of this subsection.

14 § 2482i. CREDIT CARD TERMINAL; LEASE PROVISIONS

15 The following provisions apply to a lease for the use of a credit card
16 terminal:

17 (1) Plain language. The party primarily responsible for drafting the
18 lease shall use plain language designed to be understood by ordinary
19 consumers, presented in a reasonable format, typeface, and font.

20 (2) Total cost.

1 (A) The lease shall specify a cap on the total cost the lessee is
2 required to pay to use the equipment.

3 (B) The total cost shall not exceed 300 percent of the lessor's original
4 purchase price for the equipment or, if the lessor is the manufacturer of the
5 equipment, its total cost of manufacture.

6 (3) Contact information. The lease shall clearly and conspicuously
7 identify the lessor of the equipment and the name, mailing address, telephone
8 number, and relationship to the lessor of:

9 (A) the person to whom the lessee is required to make payments for
10 the equipment;

11 (B) the person whom the lessee should contact with questions or
12 problems concerning the equipment;

13 (C) the person to whom the lessee should deliver the equipment for
14 return or repair; and

15 (D) the sales representative or other person acting with actual or
16 apparent authority on behalf of the lessor to solicit the lease.

17 (4) Record keeping. A lessor shall retain the following information in
18 electronic format or hard copy for not less than four years after the lease ends:

19 (A) the lease; and

1 (B) a record that establishes the lessor's original purchase price for
2 the equipment or, if the lessor is the manufacturer of the equipment, its total
3 cost of manufacture.

4 (5) Prohibited provisions.

5 (A) If the judicial forum chosen by the parties to the lease is a forum
6 that would not otherwise have jurisdiction over the lessee, the choice is not
7 enforceable.

8 (B) A lessor shall not collect any charge or fee for business personal
9 property tax on the equipment unless the tax is actually imposed.

10 § 2482j. VIOLATIONS

11 (a) A person who violates this subchapter commits an unfair and deceptive
12 act in trade and commerce in violation of section 2453 of this title.

13 (b) The Attorney General has the same authority to make rules, conduct
14 civil investigations, enter into assurances of discontinuance, and take any other
15 action as provided under subchapter 1 of this chapter.

16 Sec. 2. EFFECTIVE DATE

17 This act shall take effect on July 1, 2018.