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S.206

Introduced by Senators Pearson, Sears, and Sirotkin

Referred to Committee on

Date:

Subject: Commerce and trade; consumer protection

Statement of purpose of bill as introduced: This bill proposes to create
business consumer protections for point-of-sale equipment leases.

An act relating to business consumer protection for point-of-sale equipment
leases

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

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

Subchapter 9. Credit Card Terminal Leases

§ 2482h. SOLICITATION; MATERIAL MISREPRESENTATION

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

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

(1) shall accurately disclose, orally and in writing, the nature and scope
of his or her relationship to the person or persons who own, lease, service, and
finance the equipment or provide related services, including whether he or she

1 is an employee, independent contractor, or agent of one or more of those
2 persons;

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

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

11 § 2482i. CREDIT CARD TERMINAL; LEASE PROVISIONS

12 The following provisions apply to a lease for the use of a credit card
13 terminal:

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

17 (2) Total cost.

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

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

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

7 (A) the person to whom the lessee is required to make payments for
8 the equipment;

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

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

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

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

17 (A) the lease; and

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

1 (5) Prohibited provisions.

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

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

7 § 2482j. VIOLATIONS

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

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

13 Sec. 2. EFFECTIVE DATE

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