

House Bill 1456

By: Representatives Lunsford of the 110th, Mills of the 25th, Coan of the 101st, Powell of the 29th, Williams of the 4th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling
2 and other trade practices, so as to provide legislative findings; to provide definitions; to
3 prohibit certain practices by credit card companies; to provide for penalties and civil actions;
4 to provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other
8 trade practices, is amended by adding a new article to read as follows:

9 style="text-align:center">"ARTICLE 35

10 10-1-930.

11 The General Assembly finds that:

12 (1) Courts have found that Visa and MasterCard and their member banks have market
13 power;

14 (2) Electronic payment system networks set the level of credit and debit card
15 interchange fees charged by their member banks even though those banks are supposed
16 to be competitors;

17 (3) These fees inflate the prices consumers pay for goods and services;

18 (4) Competitors should set their own prices and compete on that basis;

19 (5) Consumers are increasingly using credit and debit card electronic payment systems
20 to purchase goods and services;

21 (6) In order to provide the desired convenience to consumers, most merchants must agree
22 to accept credit and debit cards;

23 (7) Some electronic payment system networks even market themselves as currency and
 24 promote use of their products as though they were a complete substitution for legal
 25 tender;

26 (8) Due to the market power of the two largest electronic payment system networks,
 27 merchants do not have negotiating power with regard to the contract for acceptance of
 28 credit and debit cards and the cost of the interchange fees for such acceptance;

29 (9) Merchants are subject to contracts that allow the electronic payment system networks
 30 to change the terms without notice, subject merchants to staggering fines, or reinterpret
 31 the rules and hold the merchant responsible; and

32 (10) Merchants have expressed interest in working with customers to give customers the
 33 types of pricing options they would like but that are currently blocked by the terms or
 34 interpretations of unfair contracts necessary to accept credit and debit cards.

35 10-1-931.

36 As used in this article, the term:

37 (1) 'Electronic payment system' means an entity which is not a national bank that
 38 directly, or through licensed members, processors, or agents, provides the proprietary
 39 services, infrastructure, and software that route information and data to facilitate
 40 transaction authorization, clearance, and settlement, and that merchants are required to
 41 access in order to accept a specific brand of general purpose credit card, charge card,
 42 debit card, or stored value card as payment for goods or services.

43 (2) 'Merchant' means a person or entity doing business in this state which offers goods
 44 or services for sale in this state.

45 10-1-932.

46 No electronic payment system shall, directly or through any agent, processor, or member
 47 of the electronic payment system:

48 (1) Impose any requirement, condition, penalty, or fine in a contract with a merchant
 49 relating to the display of pricing for goods or services for sale by such merchant. This
 50 includes, but is not limited to, a display for a discount to be provided to a consumer for
 51 using a form of payment that carries lower fees for the merchant;

52 (2) Prevent any merchant from setting a minimum or maximum dollar value for its
 53 acceptance of a form of payment;

54 (3) Inhibit the ability of any merchant to decide not to accept the products of an
 55 electronic payment system at one of its locations; or

56 (4) Prevent any merchant from deciding not to accept certain products of an electronic
57 payment system based on the fees associated with such products while still accepting
58 other products of that electronic payment system.

59 10-1-933.

60 No electronic payment system may shall required, suggested, or default rates for the fees
61 to be charged by any issuer of its payment cards, agent, processor, or member of the
62 electronic payment system unless such issuer, agent, or processor is the electronic payment
63 system itself and not a separate legal entity.

64 10-1-934.

65 (a) Any electronic payment system found to have violated Code Section 10-1-932 or
66 10-1-933 shall reimburse all affected merchants for all chargebacks, fees, and fines
67 collected from affected merchants directly or through any agent, processor, or member of
68 the system during the period of time in which the electronic payment system was in
69 violation and shall be liable for a civil penalty of \$10,000.00 per chargeback, fee, or fine
70 levied in violation of Code Section 10-1-932 or 10-1-933.

71 (b) Any merchant whose rights under this article have been violated may maintain a civil
72 action for damages or equitable relief as provided for in this Code section.

73 (c) The Attorney General may maintain a civil action for damages or equitable relief as
74 provided for in this Code section to protect against violations of this article."

75 **SECTION 2.**

76 All laws and parts of laws in conflict with this Act are repealed.