

CIVIL CODE - CIV

DIVISION 3. OBLIGATIONS [1427 - 3272.9]

(Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.)

PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3272.9]

(Part 4 enacted 1872.)

TITLE 1.3. CREDIT CARDS [1747 - 1748.95]

(Title 1.3 added by Stats. 1971, Ch. 1019.)

1748.1.

(a) No retailer in any sales, service, or lease transaction with a consumer may impose a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means. A retailer may, however, offer discounts for the purpose of inducing payment by cash, check, or other means not involving the use of a credit card, provided that the discount is offered to all prospective buyers.

(b) Any retailer who willfully violates this section by imposing a surcharge on a cardholder who elects to use a credit card and who fails to pay that amount to the cardholder within 30 days of a written demand by the cardholder to the retailer by certified mail, shall be liable to the cardholder for three times the amount at which actual damages are assessed. The cardholder shall also be entitled to recover reasonable attorney's fees and costs incurred in the action.

A cause of action under this section may be brought in small claims court, if it does not exceed the jurisdiction of that court, or in any other appropriate court.

(c) A consumer shall not be deemed to have elected to use a credit card in lieu of another means of payment for purposes of this section in a transaction with a retailer if only credit cards are accepted by that retailer in payment for an order made by a consumer over a telephone, and only cash is accepted at a public store or other facility of the same retailer.

(d) Charges for third-party credit card guarantee services, when added to the price charged by the retailer if cash were to be paid, shall be deemed surcharges for purposes of this section even if they are payable directly to the third party or are charged separately.

(e) It is the intent of the Legislature to promote the effective operation of the free market and protect consumers from deceptive price increases for goods and services by prohibiting credit card surcharges and encouraging the availability of discounts by those

retailers who wish to offer a lower price for goods and services purchased by some form of payment other than credit card.

(f) This section does not apply to charges for payment by credit card or debit card that are made by an electrical, gas, or water corporation and approved by the Public Utilities Commission pursuant to Section 755 of the Public Utilities Code.

(Amended by Stats. 2005, Ch. 426, Sec. 1. Effective January 1, 2006.)