

H.R.627

Credit CARD Act of 2009 (Enrolled as Agreed to or Passed by Both House and Senate)

TITLE III--PROTECTION OF YOUNG CONSUMERS

(language affecting alumni association affinity credit card programs highlighted in RED)

SEC. 301. EXTENSIONS OF CREDIT TO UNDERAGE CONSUMERS.

Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

(8) APPLICATIONS FROM UNDERAGE CONSUMERS-

(A) PROHIBITION ON ISSUANCE- No credit card may be issued to, or open end consumer credit plan established by or on behalf of, a consumer who has not attained the age of 21, unless the consumer has submitted a written application to the card issuer that meets the requirements of subparagraph (B).

(B) APPLICATION REQUIREMENTS- An application to open a credit card account by a consumer who has not attained the age of 21 as of the date of submission of the application shall require--

(i) the signature of a cosigner, including the parent, legal guardian, spouse, or any other individual who has attained the age of 21 having a means to repay debts incurred by the consumer in connection with the account, indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has attained the age of 21; or

(ii) submission by the consumer of financial information, including through an application, indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account.

(C) SAFE HARBOR- The Board shall promulgate regulations providing standards that, if met, would satisfy the requirements of subparagraph (B)(ii).'

SEC. 302. PROTECTION OF YOUNG CONSUMERS FROM PRESCREENED CREDIT OFFERS.

Section 604(c)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681b(c)(1)(B)) is amended--

(1) in clause (ii), by striking 'and' at the end; and

(2) in clause (iii), by striking the period at the end and inserting the following: '; and

`(iv) the consumer report does not contain a date of birth that shows that the consumer has not attained the age of 21, or, if the date of birth on the consumer report shows that the consumer has not attained the age of 21, such consumer consents to the consumer reporting agency to such furnishing.'.

SEC. 303. ISSUANCE OF CREDIT CARDS TO CERTAIN COLLEGE STUDENTS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following new subsection:

`(p) Parental Approval Required To Increase Credit Lines for Accounts for Which Parent Is Jointly Liable- No increase may be made in the amount of credit authorized to be extended under a credit card account for which a parent, legal guardian, or spouse of the consumer, or any other individual has assumed joint liability for debts incurred by the consumer in connection with the account before the consumer attains the age of 21, unless that parent, guardian, or spouse approves in writing, and assumes joint liability for, such increase.'.

SEC. 304. PRIVACY PROTECTIONS FOR COLLEGE STUDENTS.

Section 140 of the Truth in Lending Act (15 U.S.C. 1650) is amended by adding at the end the following:

`(f) Credit Card Protections for College Students-

`(1) DISCLOSURE REQUIRED- An institution of higher education shall publicly disclose any contract or other agreement made with a card issuer or creditor for the purpose of marketing a credit card.

`(2) INDUCEMENTS PROHIBITED- No card issuer or creditor may offer to a student at an institution of higher education any tangible item to induce such student to apply for or participate in an open end consumer credit plan offered by such card issuer or creditor, if such offer is made--

`(A) on the campus of an institution of higher education;

`(B) near the campus of an institution of higher education, as determined by rule of the Board; or

`(C) at an event sponsored by or related to an institution of higher education.

`(3) SENSE OF THE CONGRESS- It is the sense of the Congress that each institution of higher education should consider adopting the following policies relating to credit cards:

`(A) That any card issuer that markets a credit card on the campus of such institution notify the institution of the location at which such marketing will take place.

`(B) That the number of locations on the campus of such institution at which the marketing of credit cards takes place be limited.

`(C) That credit card and debt education and counseling sessions be offered as a regular part of any orientation program for new students of such institution.'.

SEC. 305. COLLEGE CREDIT CARD AGREEMENTS.

(a) In General- Section 127 of the Truth in Lending Act (15 U.S.C. 1637), as otherwise amended by this Act, is amended by adding at the end the following:

`(r) College Card Agreements-

`(1) DEFINITIONS- For purposes of this subsection, the following definitions shall apply:

`(A) COLLEGE AFFINITY CARD- The term `college affinity card' means a credit card issued by a credit card issuer under an open end consumer credit plan in conjunction with an agreement between the issuer and an institution of higher education, or an alumni organization or foundation affiliated with or related to such institution, under which such cards are issued to college students who have an affinity with such institution, organization and--

`(i) the creditor has agreed to donate a portion of the proceeds of the credit card to the institution, organization, or foundation (including a lump sum or 1-time payment of money for access);

`(ii) the creditor has agreed to offer discounted terms to the consumer; or

`(iii) the credit card bears the name, emblem, mascot, or logo of such institution, organization, or foundation, or other words, pictures, or symbols readily identified with such institution, organization, or foundation.

`(B) COLLEGE STUDENT CREDIT CARD ACCOUNT- The term `college student credit card account' means a credit card account under an open end consumer credit plan established or maintained for or on behalf of any college student.

`(C) COLLEGE STUDENT- The term `college student' means an individual who is a full-time or a part-time student attending an institution of higher education.

`(D) INSTITUTION OF HIGHER EDUCATION- The term `institution of higher education' has the same meaning as in section 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002).

`(2) REPORTS BY CREDITORS-

`(A) IN GENERAL- Each creditor shall submit an annual report to the Board containing the terms and conditions of all business, marketing, and promotional agreements and college affinity card agreements with an institution of higher education, or an alumni organization or foundation affiliated with or related to such institution, with respect to any college student credit card issued to a college student at such institution.

`(B) DETAILS OF REPORT- The information required to be reported under subparagraph (A) includes--

`(i) any memorandum of understanding between or among a creditor, an institution of higher education, an

alumni association, or foundation that directly or indirectly relates to any aspect of any agreement referred to in such subparagraph or controls or directs any obligations or distribution of benefits between or among any such entities;

` (ii) the amount of any payments from the creditor to the institution, organization, or foundation during the period covered by the report, and the precise terms of any agreement under which such amounts are determined; and

` (iii) the number of credit card accounts covered by any such agreement that were opened during the period covered by the report, and the total number of credit card accounts covered by the agreement that were outstanding at the end of such period.

` (C) AGGREGATION BY INSTITUTION- The information required to be reported under subparagraph (A) shall be aggregated with respect to each institution of higher education or alumni organization or foundation affiliated with or related to such institution.

` (D) INITIAL REPORT- The initial report required under subparagraph (A) shall be submitted to the Board before the end of the 9-month period beginning on the date of enactment of this subsection.

` (3) REPORTS BY BOARD- The Board shall submit to the Congress, and make available to the public, an annual report that lists the information concerning credit card agreements submitted to the Board under paragraph (2) by each institution of higher education, alumni organization, or foundation.'

(b) Study and Report by the Comptroller General-

(1) STUDY- The Comptroller General of the United States shall, from time to time, review the reports submitted by creditors under section 127(r) of the Truth in Lending Act, as added by this section, and the marketing practices of creditors to determine the impact that college affinity card agreements and college student card agreements have on credit card debt.

(2) REPORT- Upon completion of any study under paragraph (1), the Comptroller General shall periodically submit a report to the Congress on the findings and conclusions of the study, together with such recommendations for administrative or legislative action as the Comptroller General determines to be appropriate.

TITLE IV--GIFT CARDS

SEC. 401. GENERAL-USE PREPAID CARDS, GIFT CERTIFICATES, AND STORE GIFT CARDS.

The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended--

(1) by redesignating sections 915 through 921 as sections 916 through 922, respectively; and

(2) by inserting after section 914 the following:

SEC. 915. GENERAL-USE PREPAID CARDS, GIFT CERTIFICATES, AND STORE GIFT CARDS.

(a) Definitions- In this section, the following definitions shall apply:

(1) DORMANCY FEE; INACTIVITY CHARGE OR FEE- The terms 'dormancy fee' and 'inactivity charge or fee' mean a fee, charge, or penalty for non-use or inactivity of a gift certificate, store gift card, or general-use prepaid card.

(2) GENERAL USE PREPAID CARD, GIFT CERTIFICATE, AND STORE GIFT CARD-

(A) GENERAL-USE PREPAID CARD- The term 'general-use prepaid card' means a card or other payment code or device issued by any person that is--

(i) redeemable at multiple, unaffiliated merchants or service providers, or automated teller machines;

(ii) issued in a requested amount, whether or not that amount may, at the option of the issuer, be increased in value or reloaded if requested by the holder;

(iii) purchased or loaded on a prepaid basis; and

(iv) honored, upon presentation, by merchants for goods or services, or at automated teller machines.

(B) GIFT CERTIFICATE- The term 'gift certificate' means an electronic promise that is--

(i) redeemable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo;

(ii) issued in a specified amount that may not be increased or reloaded;

(iii) purchased on a prepaid basis in exchange for payment; and

(iv) honored upon presentation by such single merchant or affiliated group of merchants for goods or services.

(C) STORE GIFT CARD- The term 'store gift card' means an electronic promise, plastic card, or other payment code or device that is--

(i) redeemable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo;

(ii) issued in a specified amount, whether or not that amount may be increased in value or reloaded at the request of the holder;

(iii) purchased on a prepaid basis in exchange for payment; and

` (iv) honored upon presentation by such single merchant or affiliated group of merchants for goods or services.

` (D) EXCLUSIONS- The terms `general-use prepaid card', `gift certificate', and `store gift card' do not include an electronic promise, plastic card, or payment code or device that is--

` (i) used solely for telephone services;

` (ii) reloadable and not marketed or labeled as a gift card or gift certificate;

` (iii) a loyalty, award, or promotional gift card, as defined by the Board;

` (iv) not marketed to the general public;

` (v) issued in paper form only (including for tickets and events); or

` (vi) redeemable solely for admission to events or venues at a particular location or group of affiliated locations, which may also include services or goods obtainable--

` (I) at the event or venue after admission; or

` (II) in conjunction with admission to such events or venues, at specific locations affiliated with and in geographic proximity to the event or venue.

` (3) SERVICE FEE-

` (A) IN GENERAL- The term `service fee' means a periodic fee, charge, or penalty for holding or use of a gift certificate, store gift card, or general-use prepaid card.

` (B) EXCLUSION- With respect to a general-use prepaid card, the term `service fee' does not include a one-time initial issuance fee.

` (b) Prohibition on Imposition of Fees or Charges-

` (1) IN GENERAL- Except as provided under paragraphs (2) through (4), it shall be unlawful for any person to impose a dormancy fee, an inactivity charge or fee, or a service fee with respect to a gift certificate, store gift card, or general-use prepaid card.

` (2) EXCEPTIONS- A dormancy fee, inactivity charge or fee, or service fee may be charged with respect to a gift certificate, store gift card, or general-use prepaid card, if--

` (A) there has been no activity with respect to the certificate or card in the 12-month period ending on the date on which the charge or fee is imposed;

` (B) the disclosure requirements of paragraph (3) have been met;

` (C) not more than one fee may be charged in any given month; and

`(B) shall determine the extent to which the individual definitions and provisions of the Electronic Fund Transfer Act or Regulation E should apply to general-use prepaid cards, gift certificates, and store gift cards.

`(2) CONSULTATION- In prescribing regulations under this subsection, the Board shall consult with the Federal Trade Commission.

`(3) TIMING; EFFECTIVE DATE- The regulations required by this subsection shall be issued in final form not later than 9 months after the date of enactment of the Credit CARD Act of 2009.'.

SEC. 402. RELATION TO STATE LAWS.

Section 920 of the Electronic Fund Transfer Act (as redesignated by this title) is amended by inserting `dormancy fees, inactivity charges or fees, service fees, or expiration dates of gift certificates, store gift cards, or general-use prepaid cards,' after `electronic fund transfers,'.