

SENATE No. 9

By Mr. Brennan, a petition (accompanied by bill, Senate, No. 9) of John A. Brennan, Jr., for legislation to clarify and further regulate consumer cash discounts. Banks and Banking.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-three.

AN ACT CLARIFYING AND FURTHER REGULATING CONSUMER
CASH DISCOUNTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 3 of chapter 140c of the General Laws is hereby
2 amended by striking out subsection (i) as amended by sec-
3 tion 2 of chapter 559 of the Acts of 1978, and inserting in
4 place thereof the following subsection: —

5 (i) Notwithstanding any other provision of this section,
6 a discount which a creditor offers, allows or otherwise makes
7 available for the purpose of including payments for a pur-
8 chase by cash, check, or similar means rather than by use of
9 an open end credit card account, whether or not a credit card
10 is physically used, is not a finance charge, provided that for
11 purposes of this subsection, payment by check, draft or other
12 negotiable instrument which may result in the debiting of a
13 cardholder's open end account shall not be considered pay-
14 ment by use of that account and provided further that: —

15 (1) Such discount is available to all prospective buyers,
16 whether or not they are cardholders; (2) the availability of
17 a discount the seller offers for the purpose of inducing pay-
18 ment by cash, check or other means not involving the use of
19 an open end credit plan or a credit card is made known to
20 buyers; and (3) if an offer of property or services is adver-
21 tised in any medium or if offers are invited or accepted
22 through the mail, over the telephone, or by means other than
23 personal contact between the customer and the creditor offer-
24 ing such a discount, and if customers are allowed to pay by use

25 of a credit card or its underlying account and such fact is dis-
26 closed in the advertisement, telephone contact, or in other
27 correspondence, the availability of such a discount must be
28 clearly and conspicuously disclosed in any advertisement for
29 such offerings and, in any case, before the transaction has
30 been completed by use of the credit card or its underlying ac-
31 count. If a price other than the regular price, as defined in
32 subsection (cc) of section one, is disclosed in an advertise-
33 ment, telephone contact, or other correspondence promoting
34 goods or services for which such a discount is offered, then
35 the advertisement, telephone contact, or other correspondence
36 shall also indicate that such price is not available to credit
37 card purchasers.

38 The availability of any discount may be limited by the
39 creditor offering such discount to certain types of property
40 or services or to certain outlets maintained by that creditor
41 provided that such limitations are clearly and conspicuously
42 disclosed.

43 No creditor in any sales transaction may impose a sur-
44 charge.

45 Notwithstanding any other provisions of this chapter, any
46 discount which, pursuant to this subsection, is not a finance
47 charge for purposes of this chapter, shall not be considered
48 a finance charge or other charge for credit under the laws
49 relating to: usury; or disclosure of information in connection
50 with credit extensions; or the types, amounts, or rates of
51 charges, or the element or elements of charges permissible in
52 connection with the extension or use of credit.