

LEGAL MEMO

TO: Bob Krogman
FROM: Kirsten J. Libby, Strusinski, Libby & Associates, P.A.
DATE: January 8, 2008
RE: Surcharge for Credit Card Use

Following is an analysis and conclusion of whether or not an individual retailer/seller may recoup some of the cost of credit card charges by assessing a service fee for using a credit card.

Short Answer: Yes as long as the seller informs the buyer, both orally at time of purchase, and by signage, and the amount does not exceed five percent of the purchase price.

Current Law: Minnesota statute 325G.051 governs surcharges on credit cards. The law allows a seller of goods or services to impose a surcharge on a buyer, who chooses to use a credit card rather than pay cash.

If a seller chooses to impose this charge he must:

1. Verbally inform the purchaser at time of sale; and
2. Post the fact conspicuously.

In no event can the surcharge exceed five percent of the total purchase price.

This surcharge may only be applied to credit cards that are not the store's own. If a buyer uses that store's credit card, it is treated as if he is paying cash.

It is also important to understand the definition of surcharge. A surcharge is a fee or a charge imposed on the buyer that increases the price of goods or services, because the buyer is using a credit card. This does not include a discount offered by the seller for buyers using cash if the discount is offered to all buyers.

There is also a penalty clause for sellers who violate this statute. Violation subjects the seller to a civil penalty of up to \$500 and entitles the buyer to a refund of the overage of the surcharge.