

KANSAS ASSOCIATION OF BEVERAGE RETAILERS

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Chair Tyson and members of the Senate Committee on Assessment and Taxation:

Thank you for the opportunity to speak to you today to support House Bill 2316 on behalf of the Kansas Association of Beverage Retailers.

The Kansas Association of Beverage Retailers was created at the repeal of prohibition in Kansas and is made up of licensed off premise retailers – liquor store owners – across the state of Kansas. Our members are all Kansans, a fact that has been a source of efficient regulation for the Kansas Liquor Control Act since its creation in 1949.

Kansas retail liquor stores are all locally owned small businesses. These businesses support their communities by banking locally, buying local services, and sponsoring local teams and charities. Small businesses are often cited as the backbone of the Kansas economy, but Kansas can do more to support their success.

The relationship between business owners and credit card companies is not always friendly. This is mostly because retailers have few choices in the relationship. It would be impossible to refuse to accept credit cards in a retail business, but the charges and fees associated with this service are a significant issue for small businesses.

When researched last session, Kansas was one of four states with a statute to prohibit surcharges. The *Card X v. Kansas Attorney General* District Court decision last February deems the statute an unconstitutional violation of free speech.

K.S.A. 16a-2-403 (the “Kansas no-surcharge statute”) states as follows:

No seller or lessor in any sales or lease transaction or any credit or debit card issuer may impose a surcharge on a card holder who elects to use a credit or debit card in lieu of payment by cash, check or similar means. A surcharge is any additional amount imposed at the time of the sales or lease transaction by the merchant, seller or lessor that increases the charge to the buyer or lessee for the privilege of using a credit or debit card.

The Kansas no-surcharge statute allows cash “discounts” but prohibits credit card “surcharges.” The no-surcharge statute provides exemptions for educational boards and institutions, and state and county entities – seemingly acknowledging the benefits

of surcharges for customers who choose to use credit cards and keeping prices down for those who do not.

At the end of the day, most of our members indicate they will not implement surcharges at all. Others would like the option.

Changing this law will provide a benefit to our retailers and their customers by giving them choice. We recognize it will not solve all of the issues associated with the high cost of accepting credit cards and the contract language that goes with it. Already, we are hearing from retailers about processors who seek to take advantage of this change in a way that is not at all customer friendly. This is why we hope to keep as much authority in the hands of the retailer as possible to avoid unreasonable surcharges for their customers.

Please pass HB 2316 to eliminate this unconstitutional statute.

We appreciate the support we have received from the members of this committee in the past. If you have any questions about this or any other matter relating to our businesses, please do not hesitate to contact us.

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