

# R.S. 17:10A - 1 et seq.

## LEGISLATIVE FACT SHEET

ON *Unauthorized use of credit cards*

N.J.R.S. *17:10A-1 et seq.*

( ~~Amendment~~ )

LAWS OF 1971  
SENATE *633 (2CCR)*  
INTRODUCED *March 9, 1970*

CHAPTER *246* *6/29*  
ASSEMBLY  
BY *DiIuliano et al.*

STATEMENT

YES

NO

AMENDED DURING PASSAGE

YES

NO

HEARING

VETO *Conditional Veto*

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 633

STATE OF NEW JERSEY

INTRODUCED MARCH 9, 1970

By Senators GIULIANO, SCHOEM, MATTURRI, LACORTE,  
MARAZITI, SISCO, SCIRO, DELTUFO and DOWD

Referred to Committee on Commerce, Industry and Professions

AN ACT concerning credit cards and supplementing Title 17 of  
the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. As used in this act:

2 (a) "Credit card" means any instrument or device, whether  
3 known as a credit card, credit plate, or by any other name, issued  
4 with or without fee by a card issuer for the use of the cardholder  
5 in obtaining money, goods, services, or any thing else of value,  
6 either on credit or in consideration of an undertaking or guaranty  
7 by the issuer of the payment of check drawn by the cardholder.

8 (b) "Accepted credit card" means any credit card which the  
9 cardholder requested in writing or has signed or has used, or  
10 authorized another to use, for the purpose of obtaining money,  
11 property, labor or services on credit. A renewal *\*or replacement\**  
12 credit card shall be deemed to be accepted if it is issued **\*[within 1**  
13 **year after a prior card has been paid for or used]\*** *\*by the issuer*  
14 *or the predecessor of the issuer and previously applied for, or used*  
15 *or paid for by the person to whom issued\**. A credit card issued in  
16 connection with a merger, acquisition, or the like of card issuers or  
16A credit card services in substitution for an accepted credit card shall  
16B be deemed to be an accepted credit card.

17 (c) "Card issuer" means the business organization or financial  
18 institution which issues a credit card, or its duly authorized agent.

19 (d) "Cardholder" means the person or organization identified  
20 on the face of a credit card to whom or for whose benefit the credit  
21 card is issued by a card issuer.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

22 (e) "Unauthorized use" means a use of a credit card by a per-  
 23 son, other than the cardholder, who does not have actual, implied,  
 24 or apparent authority for such use and from which use the card-  
 25 holder receives no benefit.

26 *\*\* (f) "Adequate notice" means a printed notice to a cardholder*  
 27 *which sets forth the pertinent facts clearly and conspicuously so that*  
 28 *a cardholder could reasonably be expected to have noticed it and*  
 29 *understood its meaning. Such notice may be given to a cardholder*  
 30 *by printing the notice on any credit card, or on each periodic state-*  
 31 *ment of account, issued to the cardholder, or by any other means*  
 32 *reasonably assuring the receipt thereof by the cardholder.\*\**

1 2. No cardholder shall be liable for the unauthorized use of a  
 2 credit card which has not become an accepted credit card.

1 \***[3. If any accepted credit card is lost or stolen after the credit**  
 2 **card has reached the cardholder, and the cardholder notifies the**  
 3 **card issuer within a reasonable time by telephone, telegraph, letter**  
 4 **or any other reasonable means after discovery of the loss or theft**  
 5 **or after the time in which a reasonable man in the exercise of**  
 6 **ordinary care would have discovered the loss or theft, the card-**  
 7 **holder is not liable for the unauthorized use of the credit card.]\***

1 *\*3. No cardholder of an accepted credit card\*\** **[**, who exercises  
 2 *reasonable care in its use and safekeeping]* **\*\* shall be liable for the**  
 3 *unauthorized use of such card \*\*unless such unauthorized use occurs*  
 4 *before the cardholder has notified the card issuer\*\** **\*\*** **[**. "Reason-  
 5 *able care" within the meaning of this section shall require the card-*  
 6 *holder of an accepted credit card to notify promptly]* **\*\* by tele-**  
 7 *graph, letter, a telephone call confirmed promptly by letter or any*  
 8 *other reasonable means\*\** **[**, the issuer in case of a card which has  
 9 *been lost or stolen. However, failure to notify the issuer shall not*  
 10 *result in the liability of more than \$100.00 in the unauthorized use*  
 11 *of the credit card.]\** **\*\* that the credit card has been lost or stolen.**  
 12 *No cardholder shall be liable under this section to a card issuer with*  
 13 *respect to a credit card, including any duplicates thereof, for any*  
 14 *amount in excess of \$50.00.\*\**

1 4. A provision to impose liability on a cardholder of an accepted  
 2 credit card for the **\*\*** **[**purchase or lease of property or services  
 3 **by]** **\*\* unauthorized\*\*** use of a credit card **\*\*** **[**after its loss or  
 4 **theft]** **\*\*** when notice of loss or theft is not given **\*\*** **[**within a reason-  
 4A **able time]** **\*\* pursuant to section 3\*\*** is effective only if **\*\*** **[** it is  
 5 conspicuously written or printed in a size at least equal to 8-point  
 6-8 bold type either on the card, or on a writing accompanying the card  
 9 when issued, or on the cardholder's application for the card. Such a

10 provision either in a credit card issued prior to the effective  
11 date of this act, or in a writing accompanying such a card when  
12 issued, or in the cardholder's application for such a card, shall be  
13 effective on or after the effective date of this act only if the  
14 issuer mails to the cardholder, properly addressed, written notice  
15 of the provision conspicuously written or printed in a size at least  
16 equal to 8-point bold type. ]\*\* *the card issuer has given adequate*  
17 *notice to the cardholder of the potential liability and the card issuer*  
18 *has provided the cardholder with a self-addressed, prestamped*  
19 *notification to be mailed by the cardholder in the event of the loss or*  
20 *theft of the credit card.\*\**

1 5. Whenever fees, charges, or penalties are assessed against a  
2 cardholder for the use of a credit card, the card issuer shall sepa-  
3 rately state and label all such fees, charges and penalties.

1 6. This act shall take effect immediately.

SENATE, No. 633

STATE OF NEW JERSEY

INTRODUCED MARCH 9, 1970

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9 cardholder requested in writing or has signed or has used, or  
10 authorized another to use, for the purpose of obtaining money,  
11 property, labor or services on credit. A renewal *\*or replacement\**  
12 credit card shall be deemed to be accepted if it is issued *\*[within 1*  
13 *year after a prior card has been paid for or used]\* \*by the issuer*  
14 *or the predecessor of the issuer and previously applied for, or used*  
15 *or paid for by the person to whom issued\**. A credit card issued in  
16 connection with a merger, acquisition, or the like of card issuers or  
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**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

22 (e) "Unauthorized use" means a use of a credit card by a per-  
 23 son, other than the cardholder, who does not have actual, implied,  
 24 or apparent authority for such use and from which use the card-  
 25 holder receives no benefit.

1 2. No cardholder shall be liable for the unauthorized use of a  
 2 credit card which has not become an accepted credit card.

1 \***3.** If any accepted credit card is lost or stolen after the credit  
 2 card has reached the cardholder, and the cardholder notifies the  
 3 card issuer within a reasonable time by telephone, telegraph, letter  
 4 or any other reasonable means after discovery of the loss or theft  
 5 or after the time in which a reasonable man in the exercise of  
 6 ordinary care would have discovered the loss or theft, the card-  
 7 holder is not liable for the unauthorized use of the credit card.]\*

1 \*3. No cardholder of an accepted credit card, who exercises rea-  
 2 sonable care in its use and safekeeping shall be liable for the unau-  
 3 thorized use of such card. "Reasonable care" within the meaning of  
 4 this section shall require the cardholder of an accepted credit card  
 5 to notify promptly by telegraph, letter, a telephone call confirmed  
 6 promptly by letter or any other reasonable means, the issuer in  
 7 case of a card which has been lost or stolen. However, failure to  
 8 notify the issuer shall not result in the liability of more than \$100.00  
 9 in the unauthorized use of the credit card.\*

1 4. A provision to impose liability on a cardholder of an accepted  
 2 credit card for the purchase or lease of property or services by  
 3 use of a credit card after its loss or theft when notice of loss or  
 4 theft is not given within a reasonable time is effective only if it is  
 5 conspicuously written or printed in a size at least equal to 8-point  
 6-8 bold type either on the card, or on a writing accompanying the card  
 9 when issued, or on the cardholder's application for the card. Such a  
 10 provision either in a credit card issued prior to the effective  
 11 date of this act, or in a writing accompanying such a card when  
 12 issued, or in the cardholder's application for such a card, shall be  
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 14 issuer mails to the cardholder, properly addressed, written notice  
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 2 cardholder for the use of a credit card, the card issuer shall sepa-  
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SENATE AMENDMENTS TO  
**SENATE, No. 633**  
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**STATE OF NEW JERSEY**

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ADOPTED MARCH 11, 1971

Amend page 2, after section (e), line 25, insert:

“(f) ‘Adequate notice’ means a printed notice to a cardholder which sets forth the pertinent facts clearly and conspicuously so that a cardholder could reasonably be expected to have noticed it and understood its meaning. Such notice may be given to a cardholder by printing the notice on any credit card, or on each periodic statement of account, issued to the cardholder, or by any other means reasonably assuring the receipt thereof by the cardholder.”

Amend page 2, section 3, lines 1 and 2, after “credit card”, delete “, who exercises reasonable care in its use and safekeeping”.

Amend page 2, section 3, line 3, after “card”, insert “unless such unauthorized use occurs before the cardholder has notified the card issuer”.

Amend page 2, section 3, lines 3 through 5, delete “. ‘Reasonable care’ within the meaning of this section shall require the cardholder of an accepted credit card to notify promptly”.

Amend page 2, section 3, lines 6 through 9, delete from “, the issuer in” through line 9 in its entirety.

Amend page 2, section 3, line 6, after “reasonable means”, insert “that the credit card has been lost or stolen. No cardholder shall be liable under this section to a card issuer with respect to a credit card, including any duplicates thereof, for any amount in excess of \$50.00.”.

Amend page 2, section 4, line 2, delete “purchase or lease of property or services by”, and insert “unauthorized”.

Amend page 2, section 4, line 3, after “use of a credit card”, delete “after its loss or theft”.

Amend page 2, section 4, line 4, after “theft is not given”, delete “within a reasonable time”, and insert “pursuant to section 3”.

Amend page 2, section 4, lines 4 through 16, after “is effective only if”, delete through line 16 in its entirety, and insert “the card issuer has

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

SENATE BILL NO. 633

March 8, 1971

To The Senate:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 633, with my objections, for reconsideration.

Senate Bill No. 633 attempts to limit the liability of credit cardholders with respect to the unauthorized use of such cards. The intention of this bill is to provide protection to the public in cases where a credit card may have been misplaced or stolen and is used by someone without authority from the cardholder. In addition, by severely limiting the liability of cardholders, the bill should greatly reduce the flood of unsolicited credit cards to which I referred in my Annual Message to the Legislature in January of this year. I have reviewed Senate Bill No. 633 with great care and I commend the action of the Legislature in adopting this legislation for consumer protection in the area of credit cards.

I do believe, however, that the bill must be amended in its treatment of liability for the unauthorized use of credit cards if it is to accomplish its purpose. As presently drafted, the bill could possibly be interpreted as imposing unlimited liability on a cardholder if he fails to use reasonable care in its use and safekeeping. Reasonable care, as defined in the bill, requires the cardholder to give notice to the issuer when a card is lost or stolen. Failure to give such notice could not result in liability in excess of \$100. However, if a cardholder failed to use reasonable care but did give the required notice, there is no limitation on his potential liability. I believe that the risk of unauthorized use of credit cards must rest primarily with the issuer. Furthermore, since the Federal Truth-In-Lending Act now provides a \$50 maximum liability, a similar limitation should be embodied in the State law. Therefore, I recommend amendments which will permit liability only to the extent of \$50 for the unauthorized use of a credit card and only then in cases where the unauthorized use occurs before the cardholder has notified the card issuer that the card has been lost, stolen or is otherwise out of control of the cardholder.



STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

SENATE BILL NO. 633

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Accordingly, I herewith return Senate Bill No. 633 for reconsideration and recommend that it be amended as follows:

Page 2, after Section (e), Line 25, insert: "(f) 'Adequate notice' means a printed notice to a cardholder which sets forth the pertinent facts clearly and conspicuously so that a cardholder could reasonably be expected to have noticed it and understood its meaning. Such notice may be given to a cardholder by printing the notice on any credit card, or on each periodic statement of account, issued to the cardholder, or by any other means reasonably assuring the receipt thereof by the cardholder."

Page 2, Section 3, Lines 1 and 2: After "credit card" delete ", who exercises reasonable care in its use and safekeeping".

Page 2, Section 3, Line 3: Insert "unless such unauthorized use occurs before the cardholder has notified the card issuer."

Page 2, Section 3, Lines 3 through 5: Delete "'Reasonable care' within the meaning of this section shall require the cardholder of an accepted credit card to notify promptly".

Page 2, Section 3, Lines 6 through 9: Delete from ", the issuer in" through line 9 in its entirety.

Page 2, Section 3, Line 6: After "reasonable means" insert "that the credit card has been lost or stolen. No cardholder shall be liable under this section to a card issuer with respect to a credit card, including any duplicates thereof, for any amount in excess of \$50.00."

Page 2, Section 4, Line 2: Delete "purchase or lease of property or services by" and insert "unauthorized".

Page 2, Section 4, Line 3: After "use of a credit card" delete "after its loss or theft".

Page 2, Section 4, Line 4: After "theft is not given" delete "within a reasonable time" and insert "pursuant to section 3".

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

SENATE BILL NO. 633

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Page 2, Section 4, Lines 4 through 16: After "is effective only if" delete through Line 16 in its entirety, and insert "the card issuer has given adequate notice to the cardholder of the potential liability and the card issuer has provided the cardholder with a self-addressed, prestamped notification to be mailed by the cardholder in the event of the loss or theft of the credit card."

Respectfully,

[Seal]

/s/ William T. Cahill

GOVERNOR

Attest:

/s/ Jean E. Mulford

Acting Secretary to the Governor