

AMENDED IN ASSEMBLY JUNE 30, 2002

AMENDED IN ASSEMBLY JUNE 17, 2002

AMENDED IN SENATE MAY 8, 2002

SENATE BILL

No. 1617

Introduced by Senator Karnette

February 21, 2002

An act to amend ~~Sections 1747.02 and~~ *Section 1747.05* of the Civil Code, relating to credit cards.

LEGISLATIVE COUNSEL'S DIGEST

SB 1617, as amended, Karnette. Credit cards.

~~Existing law defines accepted credit card to include a credit card issued in renewal of, or in substitution for, an accepted credit card that has been received by the cardholder, whether the credit card is issued by the same or a successor card issuer. Existing law provides for the issuance of credit cards, as specified, and permits a card to be issued as a renewal of, or in substitution for, an accepted credit card.~~

~~This bill would delete from the definition of accepted credit card a credit card issued in substitution for an accepted credit card. The bill would also revise the definition of an accepted credit card to include a card issued in renewal of an accepted credit card without regard to whether the credit card is issued by the same or a successor card issuer. The bill would further delete the general authorization to issue a credit card in these ways. The bill would permit a credit card to be issued as a replacement to an existing card, when the replacement results from a merger, acquisition, or portfolio sale by the existing card issuer, or when the replacement results from a change in the card processor or third party vendor. The~~

~~The bill would also permit a credit card to be issued in substitution for an accepted credit card only if the card issuer provides written notification to the credit cardholder that a substitute card is available and the cardholder contacts the issuer by telephone or mail to specifically request that a substitute card be sent an activation process whereby the cardholder is required to contact the card issuer to activate the credit card prior to using it.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 1747.02 of the Civil Code is amended~~
2 *SECTION 1. Section 1747.05 of the Civil Code is amended to*
3 *read:*

4 1747.05. (a) No credit card shall be issued except:

5 ~~(a)~~

6 (1) In response to an oral or written request or application
7 therefor;~~or.~~

8 ~~(b)~~

9 (2) As a renewal of, or in substitution for, an accepted credit
10 card whether ~~such~~ that card is issued by the same or a successor
11 card issuer.

12 (b) A credit card issued in substitution for an accepted credit
13 card may be issued only if the card issuer provides an activation
14 process whereby the cardholder is required to contact the card
15 issuer to activate the credit card prior to the first use of the credit
16 card in a credit transaction.

17 ~~to read:~~

18 1747.02.—As used in this title:

19 (a) ~~“Credit card” means any card, plate, coupon book, or other~~
20 ~~single credit device existing for the purpose of being used from~~
21 ~~time to time upon presentation to obtain money, property, labor, or~~
22 ~~services on credit. “Credit card” does not mean any of the~~
23 ~~following:~~

24 (1) ~~Any single credit device used to obtain telephone property,~~
25 ~~labor, or services in any transaction under public utility tariffs.~~

26 (2) ~~Any device that may be used to obtain credit pursuant to an~~
27 ~~electronic fund transfer, but only if the credit is obtained under an~~
28 ~~agreement between a consumer and a financial institution to~~



1 ~~extend credit when the consumer's asset account is overdrawn or~~
2 ~~to maintain a specified minimum balance in the consumer's asset~~
3 ~~account.~~

4 ~~(3) Any key or card key used at an automated dispensing outlet~~
5 ~~to obtain or purchase petroleum products, as defined in~~
6 ~~subdivision (e) of Section 13401 of the Business and Professions~~
7 ~~Code, that will be used primarily for business rather than personal~~
8 ~~or family purposes.~~

9 ~~(b) "Accepted credit card" means any credit card that the~~
10 ~~cardholder has requested or applied for and received or has signed,~~
11 ~~or has used, or has authorized another person to use, for the~~
12 ~~purpose of obtaining money, property, labor, or services on credit.~~
13 ~~Any credit card issued in renewal of an accepted credit card~~
14 ~~becomes an accepted credit card when received by the cardholder.~~

15 ~~(c) "Card issuer" means any person who issues a credit card or~~
16 ~~the agent of that person for that purpose with respect to the credit~~
17 ~~card.~~

18 ~~(d) "Cardholder" means a natural person to whom a credit card~~
19 ~~is issued for consumer credit purposes, or a natural person who has~~
20 ~~agreed with the card issuer to pay consumer credit obligations~~
21 ~~arising from the issuance of a credit card to another natural person.~~
22 ~~For purposes of Sections 1747.05, 1747.10, and 1747.20, the term~~
23 ~~includes any person to whom a credit card is issued for any~~
24 ~~purpose, including business, commercial, or agricultural use, or a~~
25 ~~person who has agreed with the card issuer to pay obligations~~
26 ~~arising from the issuance of that credit card to another person.~~

27 ~~(e) "Retailer" means every person other than a card issuer who~~
28 ~~furnishes money, goods, services, or anything else of value upon~~
29 ~~presentation of a credit card by a cardholder. "Retailer" shall not~~
30 ~~mean the state, a county, city, city and county, or any other public~~
31 ~~agency.~~

32 ~~(f) "Unauthorized use" means the use of a credit card by a~~
33 ~~person, other than the cardholder, (1) who does not have actual,~~
34 ~~implied, or apparent authority for that use and (2) from which the~~
35 ~~cardholder receives no benefit. "Unauthorized use" does not~~
36 ~~include the use of a credit card by a person who has been given~~
37 ~~authority by the cardholder to use the credit card. Any attempted~~
38 ~~termination by the cardholder of the person's authority is~~
39 ~~ineffective as against the card issuer until the cardholder complies~~
40 ~~with the procedures required by the card issuer to terminate that~~



1 authority. Notwithstanding the above, following the card issuer's
2 receipt of oral or written notice from a cardholder indicating that
3 it wishes to terminate the authority of a previously authorized user
4 of a credit card, the card issuer shall follow its usual procedures for
5 precluding any further use of a credit card by an unauthorized
6 person.

7 ~~(g) An "inquiry" is a writing that is posted by mail to the~~
8 ~~address of the card issuer to which payments are normally~~
9 ~~tendered, unless another address is specifically indicated on the~~
10 ~~statement for that purpose, then to that other address, and that is~~
11 ~~received by the card issuer no later than 60 days after the card~~
12 ~~issuer transmitted the first periodic statement that reflects the~~
13 ~~alleged billing error, and that does all of the following:~~

14 ~~(1) Sets forth sufficient information to enable the card issuer to~~
15 ~~identify the cardholder and the account.~~

16 ~~(2) Sufficiently identifies the billing error.~~

17 ~~(3) Sets forth information providing the basis for the~~
18 ~~cardholder's belief that the billing error exists.~~

19 ~~(h) A "response" is a writing that is responsive to an inquiry~~
20 ~~and mailed to the cardholder's address last known to the card~~
21 ~~issuer.~~

22 ~~(i) A "timely response" is a response that is mailed within two~~
23 ~~complete billing cycles, but in no event later than 90 days, after the~~
24 ~~card issuer receives an inquiry.~~

25 ~~(j) A "billing error" means an error by omission or~~
26 ~~omission in (1) posting any debit or credit, or (2) in~~
27 ~~computation or similar error of an accounting nature contained in~~
28 ~~a statement given to the cardholder by the card issuer. A "billing~~
29 ~~error" does not mean any dispute with respect to value, quality, or~~
30 ~~quantity of goods, services, or other benefit obtained through use~~
31 ~~of a credit card.~~

32 ~~(k) "Adequate notice" means a printed notice to a cardholder~~
33 ~~that sets forth the pertinent facts clearly and conspicuously so that~~
34 ~~a person against whom it is to operate could reasonably be~~
35 ~~expected to have noticed it and understood its meaning.~~

36 ~~(l) "Secured credit card" means any credit card issued under~~
37 ~~an agreement or other instrument that pledges, hypothecates, or~~
38 ~~places a lien on real property or money or other personal property~~
39 ~~to secure the cardholder's obligations to the card issuer.~~



1 ~~(m) “Student credit card” means any credit card that is~~
2 ~~provided to a student at a public or private college or university and~~
3 ~~is provided to that student solely based on his or her enrollment in~~
4 ~~a public or private university, or is provided to a student who would~~
5 ~~not otherwise qualify for that credit card on the basis of his or her~~
6 ~~income. A “student credit card” does not include a credit card~~
7 ~~issued to a student who has a cocardholder or cosigner who would~~
8 ~~otherwise qualify for a credit card other than a student credit card.~~

9 ~~SEC. 2. Section 1747.05 of the Civil Code is amended to read:~~
10 ~~1747.05. (a) A credit card may not be issued except as~~
11 ~~follows:~~

12 ~~(1) In response to an oral or written request or application.~~

13 ~~(2) As a renewal of an accepted credit card issued by the same~~
14 ~~card issuer.~~

15 ~~(3) As a replacement to an existing credit card when the~~
16 ~~replacement results from a merger, acquisition, or portfolio sale by~~
17 ~~the existing credit card issuer.~~

18 ~~(4) As a replacement to an existing credit card when the~~
19 ~~replacement results from a change in the card processor or third~~
20 ~~party vendor.~~

21 ~~(b) A credit card issued in substitution for an accepted credit~~
22 ~~card may be issued only if both of the following are satisfied:~~

23 ~~(1) The credit card issuer provides written notification to the~~
24 ~~credit cardholder that a substitute card is available.~~

25 ~~(2) The credit cardholder contacts the credit card issuer by~~
26 ~~telephone or mail to specifically request that a substitute card be~~
27 ~~sent.~~

