



Charles G. Cooper  
Commissioner

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## **TEXAS DEPARTMENT OF BANKING**

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### **PRESS RELEASE**

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## **Department of Banking Issues Notice to Merchants Imposing Illegal Surcharges on Debit Card Purchases**

Last week the Texas Department of Banking notified 14 merchants that they are in violation of Texas law and must immediately cease imposing illegal surcharges on debit card purchases. The merchants were also instructed to provide refunds to customers who come into their restaurants and present evidence that they were forced to pay illegal surcharges on debit card purchases.

Banking Commissioner Charles G. Cooper stated, “In investigating the illegal surcharges being incurred by some consumers it has become apparent that the merchants imposing these charges have relied upon erroneous information provided by their payment processor. The good news is that only a handful of consumers in two or three communities have reported this activity. The Department is attempting to eliminate these illegal surcharges before they become widespread affecting more citizens of Texas.”

On September 1, 2013, a new law went into effect in Texas that bans merchants from adding a surcharge to purchases made with debit cards. Specifically, *Texas Finance Code* §59.402 states, “In a sale of goods or services, a merchant may not impose a surcharge on a buyer who uses a debit or stored value card instead of cash, a check, credit card, or a similar means of payment.”

The Department of Banking has most frequently seen illegal debit card surcharges imposed under the guise of a cash and/or credit card discount. The programs usually operate as follows:

- A customer makes a purchase with cash, credit, debit, gift card, or Electronic Benefit Transfer (“EBT”) card.
- A \$0.39 or \$0.49 “service fee” or “customer service charge” is added to all purchases, regardless of the form of payment.
- If the customer is paying with cash, credit, gift card or EBT card, the \$0.39 or \$0.49 “service fee” or “customer service charge” is immediately deducted and the customer pays the original posted price.
- If the customer is paying with debit, the \$0.39 or \$0.49 “service fee” or “customer service charge” remains on the bill and the customer pays a higher price.

The 14 merchants who have been imposing these illegal debit card surcharges were sent a letter notifying them of the Department’s determination that the “service fee” or “customer service charge” they are imposing on buyers who use a debit card instead of cash, a check, credit card, or a similar means of payment is an illegal surcharge. The merchants were notified that they must immediately cease imposing illegal surcharges on debit card purchases and must provide refunds

to customers who present evidence that they paid surcharges. The merchants were told that they have 30 days to provide proof to the Department that they have ceased imposing illegal surcharges.

The merchants that are imposing surcharges are primarily located in Dallas-Fort Worth and Bryan-College Station, based on the complaints the Department has received. Any consumers that have incurred surcharges at any merchants should contact the business directly for a refund. Consumers should provide the merchants with any documentation they may have that substantiates that illegal surcharges were imposed on their debit card purchases, such as their receipts that note a “service fee” or “customer service charge.” The refund will be in the amount of the illegal surcharge (either \$0.39 or \$0.49).

Consumers should also contact the Department of Banking in addition to requesting a refund from the establishment. Information about merchants that are imposing illegal debit card surcharges should be sent to the Department’s Consumer Assistance Activities by regular mail at Texas Department of Banking, Attn: Wendy Rodriguez, 2601 North Lamar Blvd., Austin, TX 78705 or via [email](#) or by fax at 512-475-1313.