



AMENDMENT NO. 1 Calendar No.

Purpose: To provide for an effective date, to address limitations on the imposition of over-the-limit fees, and to provide for an exception to the limitation on fee and rate increases.

IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.

S. 414

To amend the Consumer Credit Protection Act, to ban abusive credit practices, enhance consumer disclosures, protect underage consumers, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by

Viz:

1 On page 2, after line 8, insert the following:

2 **SEC. 3. EFFECTIVE DATE.**

3 This Act and the amendments made by this Act shall
4 become effective 9 months after the date of enactment of
5 this Act.

6 On page 8, line 7, strike “, on the last day of such
7 billing cycle.”.

1 On page 14, line 17, strike “or” at the end.

2 On page 14, line 19, strike the period at the end and
3 insert “; or”

4 On page 14, between lines 19 and 20 insert the fol-
5 lowing:

6 “(5) an increase allowing a decreased rate to be
7 returned to the pre-existing rate, if the consumer
8 fails to abide by the conditions of a workout ar-
9 rangement with the creditor, pursuant to the rules
10 of the Board.

3

S.L.C. Herb Kohl

AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend the Truth in Lending Act, to prevent credit card issuers from taking unfair advantage of young consumers and their families, and for other purposes.

IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.

S. 414

To amend the Consumer Credit Protection Act, to ban abusive credit practices, enhance consumer disclosures, protect underage consumers, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. KOHL

Viz:

- 1 At the end of title III, add the following:
- 2 **SEC. 304. ISSUANCE OF CREDIT CARDS TO CERTAIN COL-**
- 3 **LEGE STUDENTS.**
- 4 Section 127 of the Truth in Lending Act (15 U.S.C.
- 5 1637) is amended by adding at the end the following new
- 6 subsection:
- 7 “(t) PARENTAL APPROVAL REQUIRED TO INCREASE
- 8 CREDIT LINES FOR ACCOUNTS FOR WHICH PARENT IS

1 JOINTLY LIABLE.—No increase may be made in the
2 amount of credit authorized to be extended under a credit
3 card account for which a parent, legal guardian, or spouse
4 of the consumer has assumed joint liability for debts in-
5 curred by the consumer in connection with the account
6 before the consumer attains the age of 21, unless that par-
7 ent, guardian, or spouse approves in writing, and assumes
8 joint liability for, such increase.”.

AMENDMENT NO. 4 Calendar No. _____

Purpose: To prohibit unfair or deceptive acts or practices relating to gift certificates, store gift cards, and other general-use prepaid cards, and for other purposes.

IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.

S. 414

To amend the Consumer Credit Protection Act, to ban abusive credit practices, enhance consumer disclosures, protect underage consumers, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. SCHUMER

Viz:

1 At the end, add the following:

2 **TITLE VI—GIFT CARDS**

3 **SEC. 601. DEFINITIONS.**

4 In this title:

5 (1) DEBIT CARD.—The term “debit card” has
6 the meaning given the term in section 603(r)(3) of
7 the Fair Credit Reporting Act (15 U.S.C.
8 1681a(r)(3)).

1 (2) DORMANCY FEE; INACTIVITY CHARGE OR
2 FEE.—The terms “dormancy fee” and “inactivity
3 charge or fee” mean a fee, charge, or penalty for
4 non-use or inactivity of a gift certificate, store gift
5 card, or general-use prepaid card.

6 (3) FINANCIAL INSTITUTION.—The term “fi-
7 nancial institution” has the meaning given the term
8 in section 603(t) of the Fair Credit Reporting Act
9 (15 U.S.C. 1681a(t)).

10 (4) GENERAL-USE PREPAID CARD, GIFT CER-
11 TIFICATE, AND STORE GIFT CARD.—

12 (A) GENERAL-USE PREPAID CARD.—The
13 term “general-use prepaid card” means a card
14 or other payment code or device issued by a fi-
15 nancial institution or licensed money trans-
16 mitter that is—

17 (i) redeemable at multiple, unaffiliated
18 merchants or service providers, or auto-
19 mated teller machines;

20 (ii) issued in a requested amount
21 whether or not that amount may, at the
22 option of the issuer, be increased in value
23 or reloaded if requested by the holder;

24 (iii) purchased or loaded on a prepaid
25 basis; and

1 (iv) honored, upon presentation, by
2 merchants for goods or services, or at
3 automated teller machines.

4 (B) GIFT CERTIFICATE.—The term “gift
5 certificate” means a promise that is—

6 (i) redeemable at a single merchant or
7 an affiliated group of merchants that share
8 the same name, mark, or logo;

9 (ii) issued in a specified amount and
10 cannot be increased;

11 (iii) purchased on a prepaid basis in
12 exchange for payment; and

13 (iv) honored upon presentation by
14 such single merchant or affiliated group of
15 merchants for goods or services.

16 (C) STORE GIFT CARD.—The term “store
17 gift card” means a plastic card or other pay-
18 ment code or device that is—

19 (i) redeemable at a single merchant or
20 an affiliated group of merchants that share
21 the same name, mark, or logo;

22 (ii) issued in a specified amount and
23 may or may not be increased in value or
24 reloaded;

1 (iii) purchased on a prepaid basis in
2 exchange for payment; and

3 (iv) honored upon presentation by
4 such single merchant or affiliated group of
5 merchants for goods or services.

6 (D) EXCLUSIONS.—The terms “general-
7 use prepaid card”, “gift certificate”, and “store
8 gift card” do not include a promise, plastic
9 card, or payment code or device that is—

10 (i) used solely for telephone services;

11 or

12 (ii) reloadable and not marketed or la-
13 beled as a gift card or gift certificate.

14 (5) LICENSED MONEY TRANSMITTER.—The
15 term “licensed money transmitter” means a person
16 who sells or issues payment instruments or engages
17 in the business of receiving money for transmission
18 or transmitting money within the United States or
19 to locations abroad by any and all means, including
20 payment instrument, wire, facsimile, or electronic
21 transfer.

22 (6) SERVICE FEE.—

23 (A) IN GENERAL.—The term “service fee”
24 means a periodic fee, charge, or penalty for

1 holding or use of a gift certificate, store gift
2 card, or general-use prepaid card.

3 (B) EXCLUSION.—With respect to a gen-
4 eral-use prepaid card, the term “service fee”
5 does not include a one-time initial issuance fee.

6 **SEC. 602. UNFAIR OR DECEPTIVE ACTS OR PRACTICES RE-**
7 **GARDING GIFT CARDS.**

8 (a) PROHIBITION ON IMPOSITION OF FEES OR
9 CHARGES.—

10 (1) IN GENERAL.—Except as provided under
11 paragraphs (2) through (4), it shall be unlawful for
12 any person to impose, with respect to a gift certifi-
13 cate, store gift card, or general-use prepaid card, a
14 dormancy fee, inactivity charge or fee, or a service
15 fee.

16 (2) EXCEPTION.—A dormancy fee, inactivity
17 charge or fee, or service fee may be charged with re-
18 spect to a gift certificate, store gift card, or general-
19 use prepaid card if—

20 (A) such certificate or card has a remain-
21 ing value of \$5 or less at the time such charge
22 or fee is assessed;

23 (B) such charge or fee does not exceed \$1;

24 (C)(i) there has been no activity with re-
25 spect to the certificate or card in the 24-month

1 period ending on the date the charge or fee is
2 imposed; and

3 (ii) the certificate or card was issued more
4 than 24 months before such date;

5 (D) the holder of the certificate or card
6 may reload or add value to the certificate or
7 card; and

8 (E) the disclosure requirements of para-
9 graph (3) are met.

10 (3) DISCLOSURE REQUIREMENTS.—The disclo-
11 sure requirements of this paragraph are met if—

12 (A) the gift certificate, store gift card, or
13 general-use prepaid card clearly and conspicu-
14 ously states in at least 10-point type—

15 (i) that a dormancy fee, inactivity
16 charge or fee, or service fee may be
17 charged;

18 (ii) the amount of such fee or charge;

19 (iii) how often such fee or charge may
20 be assessed; and

21 (iv) that such fee or charge may be
22 assessed for inactivity; and

23 (B) the issuer of such certificate or card
24 informs the purchaser of such charge or fee be-
25 fore such certificate or card is purchased, re-

1 regardless of whether the certificate or card is
2 purchased in person, over the Internet, or by
3 telephone.

4 (4) EXCLUSION.—The prohibition under para-
5 graph (1) shall not apply to gift certificates that—

6 (A) are distributed pursuant to an award,
7 loyalty, or promotional program; and

8 (B) with respect to which there is no
9 money or other value exchanged.

10 (b) PROHIBITION ON SALE OF GIFT CARDS WITH
11 EXPIRATION DATES.—

12 (1) IN GENERAL.—Except as provided under
13 paragraph (2), it shall be unlawful for any person to
14 sell or issue a gift certificate, store gift card, or gen-
15 eral-use prepaid card that is subject to an expiration
16 date.

17 (2) EXCEPTIONS.—A gift certificate, store gift
18 card, or general-use prepaid card may contain an ex-
19 piration date if—

20 (A) the expiration date is not less than 5
21 years after the date on which the card funds
22 were last loaded; and

23 (B) the terms of expiration are promi-
24 nently disclosed in all capital letters that are at
25 least 10-point type.

1 **SEC. 603. RELATION TO STATE LAWS.**

2 This title and any regulations or standards estab-
3 lished pursuant to this title shall not supersede any provi-
4 sion of State law with respect to dormancy fees, inactivity
5 charges or fees, service fees, or expiration dates of gift
6 certificates, store gift cards, or general-use prepaid cards.

7 **SEC. 604. ENFORCEMENT.**

8 (a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A
9 violation of this title shall be treated as a violation of a
10 rule defining an unfair or deceptive act or practice pre-
11 scribed under section 18(a)(1)(B) of the Federal Trade
12 Commission Act (15 U.S.C. 57a(a)(1)(B)).

13 (b) ACTIONS BY THE COMMISSION.—The Federal
14 Trade Commission shall enforce this title in the same
15 manner, by the same means, and with the same jurisdic-
16 tion, powers, and duties as though all applicable terms and
17 provisions of the Federal Trade Commission Act (15
18 U.S.C. 41 et seq.) were incorporated into and made a part
19 of this title.

20 (c) INDIVIDUAL CAUSE OF ACTION.—Nothing in this
21 title shall be construed to limit an individual's rights to
22 enforce a State law relating to unfair or deceptive acts
23 or practices.

Modified
AMENDMENT NO. 8 Calendar No. _____

Purpose: To provide for access to credit counseling and debt management information, and for other purposes.

IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.

S. 414

To amend the Consumer Credit Protection Act, to ban abusive credit practices, enhance consumer disclosures, protect underage consumers, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. AKAKA

Viz:

- 1 On page 22, line 7, strike “and” at the end.
- 2 On page 22, line 14, strike the period at the end and
- 3 insert “; and”.
- 4 On page 22, between lines 14 and 15, insert the fol-
- 5 lowing:
- 6 “(iv) a toll-free telephone number at which
- 7 the consumer may receive information about ac-

1 cessing credit counseling and debt management
2 services.

3 On page 25, between lines 3 and 4, insert the fol-
4 lowing:

5 (c) GUIDELINES REQUIRED.—

6 (1) IN GENERAL.—Not later than 1 year after
7 the date of enactment of this Act, the Secretary of
8 the Treasury (in this section referred to as the “Sec-
9 retary”) through the Office of Finance Education, in
10 consultation with the Board of Governors of the
11 Federal Reserve the System (in this section referred
12 to as the “Board”), shall, by rule, regulation, or
13 order, issue guidelines for the establishment and
14 maintenance by creditors of a toll-free telephone
15 number for purposes of the disclosures required
16 under section 127(b)(11)(B)(iv) of the Truth in
17 Lending Act, as added by this section.

18 (2) APPROVED AGENCIES.—Guidelines issued
19 under this subsection shall ensure that referrals pro-
20 vided by the toll-free number referred to in para-
21 graph (1) include only those agencies certified by the
22 Secretary as meeting the criteria under this section.

1 (3) CRITERIA.—The Secretary shall only certify
2 a nonprofit budget and credit counseling agency for
3 purposes of this subsection that—

4 (A) demonstrates that it will provide quali-
5 fied counselors, maintain adequate provision for
6 safekeeping and payment of client funds, pro-
7 vide adequate counseling with respect to client
8 credit problems, and deal responsibly and effec-
9 tively with other matters relating to the quality,
10 effectiveness, and financial security of the serv-
11 ices it provides; and

12 (B) at a minimum—

13 (i) is registered as a nonprofit entity
14 under section 501(c) of the Internal Rev-
15 enue Code of 1986;

16 (ii) has a board of directors, the ma-
17 jority of the members of which—

18 (I) are not employed by such
19 agency; and

20 (II) will not directly or indirectly
21 benefit financially from the outcome
22 of the counseling services provided by
23 such agency;

24 (iii) if a fee is charged for counseling
25 services, charges a reasonable and fair fee,

1 and provides services without regard to
2 ability to pay the fee;

3 (iv) provides for safekeeping and pay-
4 ment of client funds, including an annual
5 audit of the trust accounts and appropriate
6 employee bonding;

7 (v) provides full disclosures to clients,
8 including funding sources, counselor quali-
9 fications, possible impact on credit reports,
10 any costs of such program that will be paid
11 by the client, and how such costs will be
12 paid;

13 (vi) provides adequate counseling with
14 respect to the credit problems of the client,
15 including an analysis of the current finan-
16 cial condition of the client, factors that
17 caused such financial condition, and how
18 such client can develop a plan to respond
19 to the problems without incurring negative
20 amortization of debt;

21 (vii) provides trained counselors
22 who—

23 (I) receive no commissions or bo-
24 nuses based on the outcome of the
25 counseling services provided;

1 (II) have adequate experience;

2 and

3 (III) have been adequately

4 trained to provide counseling services

5 to individuals in financial difficulty,

6 including the matters described in

7 clause (vi);

8 (viii) demonstrates adequate experi-

9 ence and background in providing credit

10 counseling;

11 (ix) has adequate financial resources

12 to provide continuing support services for

13 budgeting plans over the life of any repay-

14 ment plan; and

15 (x) is accredited by an independent,

16 nationally recognized accrediting organiza-

17 tion.