

CASH DISCOUNT LAWS



Small businesses are permitted to offer a discount to customers as an incentive and to encourage customers to pay by alternate methods other than a credit/debit cards.



-Durbin Amendment II



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DODD-FRANK LAW

Durbin Amendment

As stated in the Durbin Amendment 2, the 2010 Dodd-Frank law prohibits a payment card network from inhibiting the ability of anyone to provide a discount for payment by cash, debit cards, or credit cards as long as they abide by Federal and State Law.

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((2) Limitation on restrictions on offering discounts for
use of a form of payment.--
  ((A) In general.--A payment card network shall not,
directly or through any agent, processor, or licensed
member of the network, by contract, requirement,
condition, penalty, or otherwise, inhibit the ability of
any person to provide a discount or in-kind incentive
for payment by the use of cash, checks, debit cards, or
credit cards to the extent that--
  ((i) in the case of a discount or in-kind
incentive for payment by the use of debit cards,
the discount or in-kind incentive does not
differentiate on the basis of the issuer or the
payment card network;
  ((ii) in the case of a discount or in-kind
incentive for payment by the use of credit cards,
the discount or in-kind incentive does not
differentiate on the basis of the issuer or the
payment card network; and
  ((iii) to the extent required by Federal law
and applicable State law, such discount or in-kind
incentive is offered to all prospective buyers and
disclosed clearly and conspicuously.
  ((B) Lawful discounts.--For purposes of this
paragraph, the network may not penalize any person for
the providing of a discount that is in compliance with
Federal law and applicable State law.
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New York 2nd Circuit Court of Appeals Definition of Sec. 518 (Sept. 29, 2015) "In practice...lets stores offer "discounts" to cash customers"

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... "Charges to Cardholders A Merchant must not directly or
indirectly require any Cardholder to pay a surcharge or any
part of any Merchant discount or any contemporaneous finance
charge in connection with a Transaction. A Merchant may
provide a discount to its customers for cash payments. "...
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As of January 27, 2013 several card industry changes went into effect with regards to the credit card company's federal class action litigation settlement. The settlement required VISA and Mastercard to change some rules for merchants who accept their cards, including allowing merchants to offer discounts to customers who pay with payment forms less expensive than bank debit cards.

REFERENCE: <https://www.congress.gov/bill/111th-congress/house-bill/4173/text>



In accordance with the Mastercard Rules dated 12.21.207 section 5.11.2 titled, **Charges to Card Holders**, it states that, “A merchant must not directly or indirectly require any cardholder to pay a surcharge or any part of any merchant discount of any contemporaneous finance charge in connection with a transaction. A merchant may provide a discount to its customers for cash Payments.” – MasterCard.

5.11.2 Charges to Cardholders

A Merchant must not directly or indirectly require any Cardholder to pay a surcharge or any part of any Merchant discount or any contemporaneous finance charge in connection with a Transaction. A Merchant may provide a discount to its customers for cash payments. A Merchant is permitted to charge a fee (such as a bona fide commission, postage, expedited service or convenience fees, and the like) if the fee is imposed on all like transactions regardless of the form of payment used, or as the Corporation has expressly permitted in writing.

For purposes of this Rule:

1. A surcharge is any fee charged in connection with a Transaction that is not charged if another payment method is used.
2. The Merchant discount fee is any fee a Merchant pays to an Acquirer so that the Acquirer will acquire the Transactions of the Merchant.

NOTE: Modifications to this Rule appear in the “Asia/Pacific Region,” “Canada Region” and “Additional U.S. Region and U.S. Territory Rules” chapters.





VISA

Interlink Operating Rules

VISA operating rules stated that, "A merchant is permitted to offer discounts for paying in cash, however, the discount must be given as a reduction from the standard price." – VISA.

5.2.C.1.b Each Merchant that allows Cardholders to initiate Cash Back Transactions may establish minimum and maximum cash back amounts, as specified in Section 5.3.A.

5.2.C.2 Surcharges

5.2.C.2.a All Merchant Agreements must clearly state that the Merchant must not impose a surcharge on any Transaction.

5.2.C.2.b A Merchant may offer a "discount for cash," provided it is clearly disclosed to consumers as such, and the cash price is presented as a discount from the standard price available for all other means of payment.

5.2.C.2.c A Merchant that was operational in the Interlink Network **as of 23 September 1993** and was levying a surcharge as of that date may surcharge at its locations operated under the Merchant's Trade Name that are located in the original five-state Interlink Network market area of Arizona, California, Nevada, Oregon and Washington.

5.2.C.2.d A Merchant that was operational in the Interlink Network **as of 23 September 1993** and was not levying a surcharge as of that date must not thereafter levy a surcharge.

The VISA logo, consisting of the word "VISA" in a bold, blue, sans-serif font.

While state law may vary for surcharge programs, there is no restrictions on prohibiting a merchant implementing a cash discount program as long as consumer are notified prior to purchase.

REFERENCE: <https://usa.visa.com/support/consumer/visa-rules.html>



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**AMERICAN
EXPRESS**

Merchant Operating Guide

American Express' merchant operating guide states that You may offer discounts or in-kind incentives from your regular prices for payments in cash.

- indicate or imply that you prefer, directly or indirectly, any Other Payment Products over our Card,
- try to dissuade Cardmembers from using the Card,
- criticize or mischaracterize the Card or any of our services or programs,
- try to persuade or prompt Cardmembers to use any Other Payment Products or any other method of payment (e.g., payment by check),
- impose any restrictions, conditions, disadvantages or fees when the Card is accepted that are not imposed equally on all Other Payment Products, except for electronic funds transfer, or cash and check,
- suggest or require Cardmembers to waive their right to dispute any Transaction,
- engage in activities that harm our business or the American Express Brand (or both),

**AMERICAN
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DISCOVER

Merchant Operating Regulations

Discover's Regulations state that terms permit you to offer discounts at the point-of-sale as provided in the Dodd- Frank Act. You may offer differential discounts depending on the method of payment (e.g., credit, debit, cash or check), but such discounts may not differentiate based on issuer or payment.

2.5 Surcharges and Discounts

You may assess a surcharge on a Card Sale provided that (a) the amount of the surcharge may not exceed the Merchant Fee payable by you to us for the Card Sale and (b) you assess surcharges on Card Sales conducted using other cards accepted by you, **in each case subject to the restrictions in Section 2.4; and (c) you otherwise comply with Section 2.4.** You may not assess a surcharge or other penalty fee of any kind other than as set forth above. **Effective upon publication of Release 11.1 of these Operating Regulations, you may offer discounts or in-kind incentives for payment by different tender types (e.g., a discount for payment by cash versus payment by credit card) subject to the restrictions in Section 2.4.**

DISCOVER



Swipe4Free provides you with customer facing signage at no extra cost

DEAR LOYAL CUSTOMERS

This business has a 4% Cash Discount pre-priced into all items and services. Any purchase made with a credit or debit card will remove the discount and be displayed as a “Non-Cash Charge” on your receipt

CASH DISCOUNT

However, this DOES NOT APPLY to customers paying in cash.
We thank you for your patronage & continued support!

IT IS OUR PLEASURE TO SERVE YOU

For Questions Call 855-345-0040

