Bill as Introduced

HB 1228 – AS INTRODUCED

2000 SESSION

00-2043
09/01

HOUSE BILL ***1228***

AN ACT relative to offers of credit received through the mail.

SPONSORS: Rep. Sapareto, Rock 13

COMMITTEE: Commerce

ANALYSIS

This bill provides that any offer of credit received by a consumer through the mail which infers that the consumer is guaranteed a certain amount of credit shall be guaranteed and subject to no further review or conditions. If the offer is subject to further review or conditions, the conditions for receiving the credit offered shall be stated in a type which is the same font and style as the type used to make the offer.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1228 – AS INTRODUCED

00-2043
09/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand

AN ACT relative to offers of credit received through the mail.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Section; Offers of Credit Received Through the Mail. Amend RSA 358-K by inserting after section 4-a the following new section:

358-K:4-b Offers of Credit Received Through the Mail. Any offer of credit received by a consumer through the mail which infers that a certain amount of credit is guaranteed to that consumer shall be guaranteed and subject to no further review or conditions. If the offer of credit is subject to further review and conditions, the conditions for acceptance shall be stated in type which is the same font and style as the type used to make the offer.

2 Effective Date. This act shall take effect January 1, 2001.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 1228 Date 1-26-00

Committee Commerce

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
Diane Vickers			NH Bankers Assoc		X
Jim Demers			New England Financial Services Assn		X

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE

PUBLIC HEARING ON HB 1228

BILL TITLE: relative to offers of credit received through the mail.

DATE: January 26, 2000

LOB ROOM: 302 **Time Public Hearing Called to Order:** 10:14 am

Time Adjourned: 10:53

(please circle if present)

Committee Members: Reps. Hunt, Francoeur, Herman, Tsiros, Belanger, McGough, Kenney, Langley, Pappas, Avery, Dalianis, DiFruscia, Marshall, M. Clark, Crosby, Russell, T. Reardon, Vachon, Taylor, Curran, Garrish and Keye.

Bill Sponsors: Rep. Sapareto

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep.Saparato – sponsor. Wants to clarify offers received. What's the harm if you are denied? It could harm your credit report if you are denied. Wants to end deceptive practices.

Q: What about offer from out of state?

A: Most companies would comply when they knew the law. Basically it's a type size issue. Make it plain up front that the application is subject to further review. Number of inquiries on credit report increases and customers were enticed.

Rep. Hunt – Very low impact on credit score.

Rep. Saporeto – Would help to clarify offers. Credit companies are not looking to violate state laws.

Q: Rep. Avery – There is nothing in this bill about size of type? Are you aware of that?

A: I guess you're right. It should.

Q: Have you informed the Postal Service of possible fraud.?

A: No.

***Nancy Kyle, Retail Merchants Association** – opposes bill. Credit reports are not pulled until consumer actually applies for credit. Already enough laws concerning financial institutions. Protected at federal level difficult to vary offers from state to state.

Dallas Legerquist, Credit Reporting Agencies – opposes the bill. Agency will give to companies those who qualify for the offer. Post screening criteria. Can you really take on obligations of the offer?

Respectfully Submitted:

Stephen G. Avery, Clerk

HOUSE COMMITTEE ON COMMERCE

PUBLIC HEARING ON HB 1228

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Bill Sponsors: Rep. Sapareto

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Saparoto - Sponsor. wants to clarify offers received - Wants the harm if you are denied.? It could harm your credit report if you are denied - Wants to end deceptive practices.

Q. What about offer from out of State?
A. Most companies would comply when they knew the law.

Basically its a type size issue. Make it plain up front that the application is subject to further review.

Number of inquiries on credit report increases and customers were inticed.

Rep. Hunt.- Very low impact on credit score.

Rep Saporeto - would help to clarify offers. Credit Companies are not looking to violate state laws.

Q. Avery - there is nothing in this bill about size & type? Are you aware of that.
A. I guess your right. It should

Q. Have you informed the Postal Service of possible Fraud.
A.

Nancy Kyle - Retail Merchants Assn. opposes bill - Credit reports are not pulled until consumer actually applies for credit.

Already enough laws concerning financial Institutions. Protected at Federal Level. Difficult to vary offers from state to state.

Dallas Leggerquist - Credit Recieving agencies opposed to the bill.

Agency will give to companies those who qualify for the offer. Post screening criteria. Can you really take on obligations in the offer.

Sub-Committee Minutes

HOUSE COMMITTEE ON COMMERCE

SUBCOMMITTEE WORK SESSION ON HB 1228

BILL TITLE: relative to offers of credit received through the mail.

DATE:

Subcommittee Members: Reps. {Type NAMES}

Comments and Recommendations:

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

No SUBC

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. {Type NAME}
Subcommittee Chairman/Clerk

Testimony

Retail Merchants Association of New Hampshire
80 North Main Street
Concord, New Hampshire 03301-4942

1-800-336-3770
(603) 225-9748
(603) 229-0060 fax
E-mail: nhrma@aol.com

Testimony of Nancy C. Kyle
Retail Merchants Association of NH
to the
House Commerce Committee

Wednesday, January 26, 2000

In Opposition of HB 1228

Retail Merchants Association of New Hampshire
80 North Main Street
Concord, New Hampshire 03301-4942

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(603) 225-9748
(603) 229-0060 fax
E-mail: nhrma@aol.com

Testimony of Nancy C. Kyle, Executive Vice President
Retail Merchants Association of NH
to the House Commerce Committee
Wednesday, January 26, 2000

In Opposition of HB 1228

Good morning. My name is Nancy Kyle, and I am the Executive Vice President of the Retail Merchants Association of New Hampshire (RMANH). RMANH is a state-wide, non-profit association that promotes the success of the New Hampshire retail community. We have nearly eight hundred member locations in the state, ranging in size from small, single person businesses, to large corporations.

The Retail Merchants Association of New Hampshire opposes HB 1228, providing that any offer of credit received by a consumer through the mail guaranteeing that a certain amount of credit shall be guaranteed and subject to no further review or conditions.

Offers of credit are made by way of pre-screens, post-screens and even re-screens. When a consumer accepts a solicitation to receive credit, he or she authorizes the creditor to obtain credit bureau reports to verify information on the consumer at the present time and in the future. A credit bureau report on that consumer is not pulled prior to the consumer accepting the offer.

Sometimes weeks or months can pass between an offer being made and an offer being accepted. A creditor would experience a huge risk if the initial dollar amount had to be "Guaranteed and subject to no further review or conditions." For example, many consumers anticipate filing a bankruptcy and apply for credit cards anyway. The Disclosure paragraphs in a letter offer advise the consumer (in regular size type) how he or she came to be selected for an offer, they also state that the credit offer may not be extended if, after responding to the offer, the consumer does not meet the criteria used, or any applicable criteria bearing on credit worthiness. Post screening is definitely necessary in order to ensure that the consumer is still credit worthy.

There is also the possibility that this NH legislation may be null and void due to federal preemption under the Fair Credit Reporting Act (FCRA):

1. Prescreened Offers of Credit or Insurance - The Section 624 (b) (1)(A) of the FCRA preempts any state's ability to enact new law regulating the scope of law covered under Section 604(c) or (e).

Subsection 604[c] covers the activity of furnishing reports in connection with credit or insurance transactions that are not initiated by the consumer.

Subsection 604[e] creates the right of a consumer to opt-out of such offers and how this right may be exercised, etc.

It isn't absolutely clear in either of these sections that the notice to the consumer must include or not include certain notices other than a notice to consumers of their right to opt-out of future non-initiated transactions. However, you could challenge the state's right to enact additional laws due to the overlap in "subject matter" as that term is used in Section 624, which preempts a state's ability to enact laws that govern the subject matter covered in the subsections as discussed above.

2. Definition of "Firm Offer of Credit or Insurance" - Section 624[c] of the federal FCRA preempts a state's ability to enact new law defining this term and also forces a standardization of the definition even where current law had existed at the date of enactment of the 1996 amendments to the FCRA

The definition of "firm offer of credit or insurance" is found under Section 603(l) and it is in this section of law that a creditor receives guidance regarding the selection criteria for the prescreened list and also the extent to which a creditor may use a full consumer report after receiving a consumer's application for credit resulting from the prescreened mailing.

It could be argued here that since the preemption language found in Section 624..."No requirement or prohibition may be imposed under the laws of any state...with respect to any subject matter regulated under...", could be interpreted to mean that even a modified disclosure requirement at the state level is preempted since the definition of "firm offer of credit or insurance" would be the subject matter protected at the federal level and hence would be the general subject matter of the NH proposal.

Also, in the second part of the HB 1228, the condition for receiving the credit offered shall be state in a type which is the same font and style as the type used to make the offer. This is an issue that should be addressed on the federal level, and not on a state by state basis. The consumer's authorization to verify information is printed at the bottom of the letter offer, and these letters go to consumers all over the country. To require, in the state of New Hampshire, a certain font and type size for that authorization would be problematic from a systems operation and business point of view. It would be difficult to print offers with different parameters, depending on the state they were going to.

Thank you for allowing me to speak to the Commerce Committee this morning. Due to the conflict with federal law brought up earlier and the difficulty in creating an offer for the state of New Hampshire alone, it is the position of the Retail Merchants Association of New Hampshire that regulation of this type is best left at the federal level.

Voting Sheets

HOUSE COMMITTEE ON COMMERCE

EXECUTIVE SESSION on HB 1228

BILL TITLE: **relative to offers of credit received through the mail.**

DATE: February 3, 2000

LOB ROOM: 302

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, (ITL,) Re-Refer, Interim Study (Please circle one.)

Moved by Rep. Avery

Seconded by Rep. Francoeur

Vote: 12-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 12-0/Yes

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Stephen G. Avery, Clerk

Steph G. Avery

HOUSE COMMITTEE ON COMMERCE

EXECUTIVE SESSION on HB 1228

BILL TITLE: **relative to offers of credit received through the mail.**

DATE: 02/03/06

LOB ROOM: 302

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. Avery

Seconded by Rep. Francoeur

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: {Type VOTE} 12-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Stephen G. Avery, Clerk

OFFICE OF THE HOUSE CLERK

2000 SESSION

COMMERCE

Bill #: 1228 Title: relative to offers of credit recieved through Thomas

PH Date: ____/____/____ Exec Session Date: 02/05/00

Motion: 1 FZ Amendment #:

MEMBER	YEAS	NAYS
Hunt, John B, Chairman		
Francoeur, Sheila T, V Chairman	✓	
Herman, Keith R	✓	
Tsiros, William B		
Belanger, Ronald J	✓	
McGough, Tim S	✓	
Avery, Stephen G, Clerk	✓	
Kenney, Joseph D	✓	
Langley, Jane S	✓	
Pappas, Marc P		
Dalianis, Griffin T	✓	
DiFruscia, Anthony R		
Marshall, Gene B	✓	
Clark, Martha Fuller	✓	
Crosby, Toni M		
Russell, Ronald G		
Reardon, Tara G		
Vachon, Dennis P		
Taylor, Kathleen N		
Curran, James C		
Garrish, Linda L	✓	
Keye, Harvey	✓	
	12	0
TOTAL VOTE:	12	0

Printed: 12/30/1999

Committee Report

COMMITTEE REPORT

COMMITTEE: **Commerce**

BILL NUMBER: **HB 1228**

TITLE: relative to offers of credit received through the mail

DATE: February 3, 2000 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☒ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

Rep. Stephen G. Avery for Commerce: This bill, while well intentioned, would only apply to one institution within the state. 99% of credit card offers come from out-of-state and are not subject to this law. The offers must comply with federal statutes under the Fair Credit Reporting Act and disclose all further conditions of the loan.

Vote 12-0.

Rep. Stephen G. Avery
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Commerce

HB 1228, relative to offers of credit received through the mail INEXPEDIENT TO LEGISLATE Rep. Stephen G. Avery for Commerce: This bill, while well intentioned, would only apply to one institution within the state. 99% of credit card offers come from out-of-state and are not subject to this law. The offers must comply with federal statutes under the Fair Credit Reporting Act and disclose all further conditions of the loan. Vote 12-0.