

By: Representatives Gunn, Staples

To: Banking and Financial Services; Judiciary B

HOUSE BILL NO. 931

1 AN ACT TO AMEND SECTION 75-17-19, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THE USE OF PERSONAL IDENTIFICATION NUMBERS FOR EACH
3 CREDIT CARD TRANSACTION USING THE INTERNET OR TELEPHONE; TO AMEND
4 SECTION 97-19-21, MISSISSIPPI CODE OF 1972, TO PROVIDE PENALTIES
5 FOR VIOLATIONS OF THIS ACT; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 75-17-19, Mississippi Code of 1972, is
8 amended as follows:

9 75-17-19. (1) Notwithstanding any provision of law to the
10 contrary, any retail seller and any lender or issuer of credit
11 cards may contract for and receive a finance charge for credit
12 sales of goods, services or merchandise certificates or for cash
13 advanced or other credit extended pursuant to a revolving charge
14 agreement by applying a periodic rate no greater than one and
15 three-fourths percent (1-3/4%) per month to:

16 (a) The average daily balance of the account, exclusive
17 of finance charge, in each billing period;

18 (b) An amount that shall not exceed the balance of the
19 account, exclusive of finance charge, on the first day of each
20 billing period without adding purchases or miscellaneous debits to
21 the account during the billing period; or

22 (c) Any balance of the account during each billing
23 period which does not produce an amount of finance charge in
24 excess of that permitted by (a) or (b).

25 (2) Notwithstanding the foregoing and any other provision of
26 law to the contrary, any bank which is an issuer of credit cards
27 may contract for and receive, in addition to any finance charges
28 authorized by law, an annual fee for membership in a credit card

29 plan pursuant to a revolving charge agreement and such fee shall
30 not be considered a finance charge. Such fee shall not exceed
31 Twelve Dollars (\$12.00) per year for an account where the
32 cardholder is a natural person. However, any credit card issuer
33 which does so contract for an annual membership fee may,
34 notwithstanding the provisions of subsection (1) of this section,
35 contract for and receive a finance charge for credit sales of
36 goods, services or merchandise certificates or for cash advanced
37 or other credit extended pursuant to a revolving charge agreement
38 by applying a periodic rate no greater than one and one-half
39 percent (1-1/2%) per month to:

40 (a) The average daily balance of the account, exclusive
41 of finance charge, in each billing period;

42 (b) An amount that shall not exceed the balance of the
43 account, exclusive of finance charge, on the first day of each
44 billing period without adding purchases or miscellaneous debits to
45 the account during the billing period; or

46 (c) Any balance of the account during each billing
47 period which does not produce an amount of finance charge in
48 excess of that permitted by (a) or (b).

49 (3) Notwithstanding the foregoing and any other provision of
50 law to the contrary, any bank, retail seller, lender or other
51 issuer of credit cards may contract for and receive, in addition
52 to any finance charges authorized by law, late payment charges in
53 connection with the credit sales of goods, services or merchandise
54 certificates or for cash advanced pursuant to a revolving charge
55 agreement in such amounts and upon such terms and conditions as
56 may be agreed to in writing by the bank, retail seller, lender or
57 other issuer of credit cards and the borrower or debtor, and such
58 charges and fees shall not be considered a finance charge.

59 (4) No finance charge may be charged or collected for
60 purchases made by the use of credit cards or credit sales of goods
61 or services or merchandise certificates if the outstanding balance

62 of the account existing on the first day of the billing statement
63 where such purchases initially appear is paid in full within one
64 (1) month after such billing statement date. If a finance charge
65 is otherwise due and the amount of the finance charge so computed
66 shall be less than Fifty Cents (50¢) for any such month, a finance
67 charge of Fifty Cents (50¢) for any such month may be charged,
68 received and collected. Any payment made pursuant to a revolving
69 charge agreement shall be applied first to any finance charge
70 shown to be due on the billing statement, next to repayment of
71 cash advanced or other credit extended, and finally to the
72 chronological repayment of purchases of goods, services or
73 merchandise certificates. The billing statement shall not state
74 that Mississippi law requires the imposition of a finance charge.
75 The term "month" as used in this subsection and in subsections (1)
76 and (2) of this section means either (a) a calendar month or (b) a
77 minimum of thirty (30) consecutive calendar days, or (c) the
78 number of days elapsing between the same numerical calendar day of
79 successive calendar months, or (d) a number of days which does not
80 vary by more than four (4) days from such period nor result in
81 more than twelve (12) billing periods per year. "Revolving charge
82 agreement" means an agreement by the terms of which retail sellers
83 may sell goods, services, merchandise certificates, or by which a
84 lender or issuer finances the purchase of goods or services or by
85 which a lender makes cash advances, by the use of credit cards or
86 otherwise, pursuant to which the amount financed is payable either
87 within a stated period or in installments over a period of time,
88 and the terms of which may provide for finance charges to be
89 assessed on the unpaid balance as it exists from time to time; the
90 term "revolving charge agreement" does not include the lending of
91 money evidenced by a promissory note. The term "cash advances"
92 includes credit extended by a lender to a borrower, or to any
93 other person for the account of a borrower, pursuant to a written

94 agreement, by the use of checks, drafts or other similar
95 instruments.

96 (5) Notwithstanding the foregoing and any other provision of
97 law to the contrary, any retail seller may contract for and
98 receive a finance charge for closed end credit sales of goods,
99 tangible property or services, other than pursuant to a revolving
100 charge agreement, which will result in a yield not to exceed the
101 following annual percentage rates calculated according to the
102 actuarial method:

103 (a) Twenty-four percent (24%) per annum on that part of
104 the unpaid balance of the amount financed which is Two Thousand
105 Five Hundred Dollars (\$2,500.00) or less; and

106 (b) Twenty-one percent (21%) per annum on that part of
107 the unpaid balance of the amount financed which is more than Two
108 Thousand Five Hundred Dollars (\$2,500.00).

109 (6) Notwithstanding the foregoing and any other provisions
110 of law to the contrary, any bank, retail seller, lender or other
111 issuer of credit cards may provide in the written credit card
112 agreement for such products, services, charges and fees as the
113 bank, retail seller, lender or other issuer of credit cards and
114 the debtor may agree upon (excluding, however, the finance charges
115 provided for in subsection (1) of this section), and such other
116 terms and conditions as the bank, retail seller, lender or other
117 issuer of credit cards and the debtor may agree upon from time to
118 time, and the costs associated with those products, services,
119 charges and fees shall not be considered a finance charge or an
120 annual fee. If any bank, retail seller, lender or other issuer of
121 credit cards desires to modify in any respect any term of the
122 credit card account, it shall first provide at least thirty (30)
123 days' prior written notice of the modification to the debtor. In
124 providing that notice, the bank, retail seller, lender or other
125 issuer of credit cards shall advise the debtor in writing that the
126 debtor has the option (a) to surrender the credit card, in which

127 case the debtor shall have the right to continue to pay off the
128 credit card account in the same manner and under the same terms
129 and conditions as then in effect; or (b) to hold the credit card
130 after the thirty-day period has elapsed, or to use the credit card
131 during that period, either of which shall constitute the debtor's
132 consent to the modification.

133 (7) Any bank or other entity issuing credit cards shall
134 require the use of a personal identification number for each
135 transaction using a credit card for a transaction using the
136 Internet or a telephone.

137 **SECTION 2.** Section 97-19-21, Mississippi Code of 1972, is
138 amended as follows:

139 97-19-21. (1) It is unlawful for any person, with intent to
140 defraud the cardholder, the issuer, a person or organization
141 providing money, goods, property, services or anything else of
142 value, or any other person, (a) to use a credit card or credit
143 card number obtained or retained in violation of Sections 97-19-5
144 to 97-19-29, or a credit card which he knows is forged, for the
145 purpose of obtaining money, goods, property, services or anything
146 else of value, or (b) to obtain money, goods, property, services
147 or anything else of value (i) by representing without the consent
148 of the cardholder that he is the holder of a specified card, or
149 (ii) by representing that he is the holder of a card when he has
150 reason to know that such card has not in fact been issued, or
151 (iii) by representing that he has been authorized to use the
152 credit card or credit card number, or (c) to violate the
153 provisions of Section 75-17-19(7).

154 (2) It is unlawful for any person, with intent to defraud
155 the cardholder or issuer of a credit card used in the operation of
156 an automatic unmanned cash dispensing machine, to use such card
157 for the purpose of obtaining money from such machine.

158 (3) Any person convicted for a violation of subsection (1)
159 or (2) of this section shall be punished as follows:

160 (a) For a first offense of violating subsection (1) or
161 (2) of this section, whenever the value of the money, goods,
162 property, services or other thing of value obtained or attempted
163 to be obtained is less than One Hundred Dollars (\$100.00), the
164 person committing the offense shall be punished by a fine not to
165 exceed One Thousand Dollars (\$1,000.00), or by imprisonment in the
166 county jail for a term not to exceed one (1) year, or by both such
167 fine and imprisonment.

168 (b) For a second or subsequent offense of violating
169 subsection (1) or (2) of this section, whenever the value of the
170 money, goods, property, services or other thing of value obtained
171 or attempted to be obtained is less than One Hundred Dollars
172 (\$100.00), the person committing the offense shall be guilty of a
173 felony and, upon conviction, shall be punished by a fine of not
174 less than One Hundred Dollars (\$100.00) nor more than One Thousand
175 Dollars (\$1,000.00), or by imprisonment in the State Penitentiary
176 for a term not to exceed three (3) years, or by both such fine and
177 imprisonment.

178 (c) Whenever the value of the money, goods, property,
179 services or other thing of value obtained or attempted to be
180 obtained is One Hundred Dollars (\$100.00) or more, the person
181 committing the offense, whether the offense is a first, second or
182 subsequent offense, shall be guilty of a felony and such person,
183 upon conviction, shall be punished as provided in paragraph (3)(b)
184 of this section.

185 (4) For the purpose of determining the punishment to be
186 imposed under subsection (3) of this section, the value of all
187 money, goods, property, services and other things of value
188 obtained or attempted to be obtained by two (2) or more uses of
189 the same credit card shall be aggregated.

190 **SECTION 3.** This act shall take effect and be in force from
191 and after July 1, 2005.