

## **BILL ANALYSIS**

S.B. 641  
By: Schwertner  
Investments & Financial Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

There are concerns that the prohibition against the use of surcharges on customers who use debit cards and stored value cards when paying for goods and services lacks an enforcement mechanism. S.B. 641 seeks to provide such a mechanism.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 641 transfers specified provisions of the Finance Code to the Business & Commerce Code and amends those provisions to make a person who knowingly violates the prohibition against the imposition of a surcharge for the use of a debit or stored value card liable to the state for a maximum civil penalty of \$1,000 for each violation. The bill defines "surcharge" as an increase in the price charged for goods or services imposed on a buyer who pays with a debit or stored value card that is not imposed on a buyer who pays by other means and specifies that the term does not include a discounted price charged for goods or services to a buyer who pays with cash. The bill authorizes the attorney general or the prosecuting attorney in the county in which the violation occurs to bring a suit to recover the civil penalty and to bring an action in the name of the state to restrain or enjoin a person from violating statutory provisions prohibiting the imposition of such surcharges.

S.B. 641 requires the attorney general or prosecuting attorney to give the person notice of the person's noncompliance and liability for a civil penalty before bringing the action and establishes that the violation is cured and the person is not liable for the civil penalty if the person complies with the prohibition against imposing a surcharge for the use of a debit or stored value card not later than the 30th day after the date of such notice. The bill establishes that a person who has previously received notice of noncompliance is not entitled to notice of, or the opportunity to cure, a subsequent violation. The bill entitles the attorney general or the prosecuting attorney, as appropriate, to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, including reasonable attorney's fees, court costs, and investigatory costs.

### **EFFECTIVE DATE**

September 1, 2015.