

107TH CONGRESS  
1ST SESSION

# H. R. 1825

To amend the Electronic Fund Transfer Act to safeguard consumers in connection with the utilization of certain debit cards.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2001

Mr. BARRETT of Wisconsin introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Electronic Fund Transfer Act to safeguard consumers in connection with the utilization of certain debit cards.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Consumer Debit Card  
5       Protection Act”.

6       **SEC. 2. CONGRESSIONAL FINDINGS.**

7       The Congress finds the following:

8               (1) There has been a recent trend toward  
9       issuing debit cards which can be used like credit  
10      cards, largely as replacements for debit cards which

1       could be used only with a personal identification  
2       number at automated teller machines and a limited  
3       number of retail establishments.

4           (2) Many times, debit cards that can be used  
5       like credit cards have been issued without providing  
6       adequate disclosure that—

7           (A) the card may be used to initiate an  
8       electronic fund transfer without the use of a  
9       personal identification number or similar code  
10      or means of access; and

11          (B) even though the card may carry a logo  
12      associated with credit cards, the card is not a  
13      credit card and the consumer may bear a sig-  
14      nificantly larger liability for an unauthorized  
15      transaction involving such debit card than  
16      would be the case for a similar unauthorized  
17      transaction involving a credit card.

18          (3) Thus, millions of Americans are—

19           (A) receiving cards in a form they didn't  
20      request; and

21           (B) are carrying such cards around with  
22      them—

23           (i) without realizing that the cards  
24      have an expanded capability without the  
25      protections against unauthorized transfers

1                   which are typical of cards issued to make  
2                   cash withdrawals from automated teller  
3                   machines; and

4                   (ii) without fully appreciating the  
5                   risks associated with such cards.

6           (4) Economic stimulation would be enhanced  
7           and competition among the various financial institu-  
8           tions and other companies which issue debit cards  
9           would be strengthened by the informed use of debit  
10          cards by consumers.

11 **SEC. 3. DEFINITIONS.**

12          Section 903 of the Electronic Fund Transfer Act (15  
13 U.S.C. 1693a) is amended—

14               (1) by striking “and” at the end of paragraph  
15               (10);

16               (2) by striking the period at the end of para-  
17               graph (11) and inserting a semicolon; and

18               (3) by adding at the end the following new  
19               paragraphs:

20               “(12) ATM CARD.—The term ‘ATM card’  
21               means any card issued by a financial institution for  
22               use in initiating electronic fund transfers at auto-  
23               mated teller machines and other electronic terminals  
24               which requires a code or other unique form of identi-

1       fication (other than a signature) in order to access  
2       the account of the consumer; and

3               “(13) CHECK CARD.—The term ‘check card’  
4       means any card issued by a financial institution for  
5       use in initiating electronic fund transfers from the  
6       account of a consumer which does not require the  
7       protection of a code or other means of access that  
8       uniquely identifies the consumer (and for purposes  
9       of this paragraph, a signature shall not be treated  
10      as a means of access which uniquely identifies the  
11      consumer).”.

12   **SEC. 4. CHECK CARD REQUIREMENT.**

13       Section 911 of the Electronic Fund Transfer Act (15  
14   U.S.C. 1693i) is amended by adding at the end the fol-  
15   lowing new subsection:

16       “(e) CHECK CARD REQUIREMENT.—Any check card  
17   issued by any financial institution to any consumer shall  
18   bear the legend ‘Check Card’ in a prominent typeface and  
19   in a conspicuous place on the face of the check card.”.

20   **SEC. 5. DUAL-USE DEBIT CARD.**

21       (a) CONSUMER LIABILITY.—

22               (1) IN GENERAL.—Section 909 of the Elec-  
23   tronic Fund Transfer Act (15 U.S.C. 1693g) is  
24   amended—

1 (A) by redesignating subsections (b)  
2 through (e) as subsections (d) through (g), re-  
3 spectively;

4 (B) in subsection (a)—

5 (i) by redesignating paragraphs (1)  
6 and (2) as subparagraphs (A) and (B), re-  
7 spectively, and indenting appropriately;

8 (ii) by inserting “CARDS NECESSI-  
9 TATING UNIQUE IDENTIFIER.—

10 “(1) IN GENERAL.—” after “(a)”;

11 (iii) by striking “other means of ac-  
12 cess can be identified as the person author-  
13 ized to use it, such as by signature, photo-  
14 graph,” and inserting “other means of ac-  
15 cess can be identified as the person author-  
16 ized to use it by a unique identifier, such  
17 as a photograph, retina scan,”; and

18 (iv) by striking “Notwithstanding the  
19 foregoing,” and inserting the following:

20 “(2) NOTIFICATION.—Notwithstanding para-  
21 graph (1),”; and

22 (C) by inserting before subsection (d), as  
23 so designated by this section, the following new  
24 subsections:

1       “(b) CARDS NOT NECESSITATING UNIQUE IDENTI-  
2 FIER.—A consumer shall be liable for an unauthorized  
3 electronic fund transfer only if—

4               “(1) the liability is not in excess of \$50;

5               “(2) the unauthorized electronic fund transfer  
6 is initiated by the use of a card that has been prop-  
7 erly issued to a consumer other than the person  
8 making the unauthorized transfer as a means of ac-  
9 cess to the account of that consumer for the purpose  
10 of initiating an electronic fund transfer;

11               “(3) the unauthorized electronic fund transfer  
12 occurs before the card issuer has been notified that  
13 an unauthorized use of the card has occurred or may  
14 occur as the result of loss, theft, or otherwise; and

15               “(4) such unauthorized electronic fund transfer  
16 did not require the use of a code or other unique  
17 identifier (other than a signature), such as a photo-  
18 graph, fingerprint, or retina scan.

19       “(c) NOTICE OF LIABILITY AND RESPONSIBILITY TO  
20 REPORT LOSS OF CARD, CODE, OR OTHER MEANS OF AC-  
21 CESS.—No consumer shall be liable under this title for any  
22 unauthorized electronic fund transfer unless the consumer  
23 has received in a timely manner the notice required under  
24 section 905(a)(1), and any subsequent notice required  
25 under section 905(b) with regard to any change in the

1 information which is the subject of the notice required  
 2 under section 905(a)(1).”.

3 (2) CONFORMING AMENDMENT.—Section  
 4 905(a)(1) of the Electronic Fund Transfer Act (15  
 5 U.S.C. 1693c(a)(1)) is amended to read as follows:

6 “(1) the liability of the consumer for any unau-  
 7 thorized electronic fund transfer and the require-  
 8 ment for promptly reporting any loss, theft, or unau-  
 9 thorized use of a card, code, or other means of ac-  
 10 cess in order to limit the liability of the consumer  
 11 for any such unauthorized transfer;”.

12 (b) VALIDATION REQUIREMENT FOR DUAL-USE  
 13 DEBIT CARDS.—

14 (1) IN GENERAL.—Section 911 of the Elec-  
 15 tronic Fund Transfer Act (15 U.S.C. 1693i) is  
 16 amended—

17 (A) by redesignating subsection (c) as sub-  
 18 section (d); and

19 (B) by inserting after subsection (b) the  
 20 following new subsection:

21 “(c) VALIDATION REQUIREMENT.—No person may  
 22 issue a card described in subsection (a), the use of which  
 23 to initiate an electronic fund transfer does not require the  
 24 use of a code or other unique identifier other than a signa-  
 25 ture (such as a fingerprint or retina scan), unless—

1 “(1) the requirements of paragraphs (1)  
2 through (4) of subsection (b) are met; and

3 “(2) the issuer has provided to the consumer a  
4 clear and conspicuous disclosure that use of the card  
5 may not require the use of such code or other unique  
6 identifier.”.

7 (2) TECHNICAL AND CONFORMING AMEND-  
8 MENT.—Section 911(d) of the Electronic Fund  
9 Transfer Act (15 U.S.C. 1993i(d)) (as redesignated  
10 by subsection (a)(1) of this section) is amended by  
11 striking “For the purpose of subsection (b)” and in-  
12 serting “For purposes of subsections (b) and (c)”.

13 **SEC. 6. MANAGEMENT PRACTICES RELATING TO THE**  
14 **ISSUANCE OF CHECK CARDS.**

15 Section 911 of the Electronic Fund Transfer Act (15  
16 U.S.C. 1693i) is amended by inserting after subsection (e)  
17 (as added by section 4 of this Act) the following new sub-  
18 section:

19 “(f) PREFERENCE OF CONSUMER.—

20 “(1) IN GENERAL.—If—

21 “(A) in response to a request or applica-  
22 tion by a consumer for an ATM card, a finan-  
23 cial institution issues a check card; and

24 “(B) the consumer refuses to accept a  
25 check card,

1 the issuer shall promptly issue such consumer an  
 2 ATM card.

3 “(2) DEFINITIONS.—For purposes of paragraph  
 4 (1), the following definitions shall apply.”.

5 **SEC. 7. TOLL-FREE TELEPHONE NUMBER FOR REPORTING**  
 6 **LOST OR STOLEN CHECK CARDS OR UNAU-**  
 7 **THORIZED WITHDRAWALS.**

8 (a) IN GENERAL.—Section 906 of the Electronic  
 9 Fund Transfer Act (15 U.S.C. 1693d) is amended by add-  
 10 ing at the end the following new subsection:

11 “(g) 24-HOUR, TOLL-FREE, NOTIFICATION SYS-  
 12 TEM.—A financial institution which issues a check card  
 13 to any consumer shall establish and maintain a 24-hour  
 14 notification system, including a toll-free telephone number  
 15 at which personnel are continuously accessible, which per-  
 16 mits the consumer to immediately report the loss or theft  
 17 of the check card or any unauthorized use or suspected  
 18 unauthorized use of the card.”.

19 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 20 Section 906(c)(4) of the Electronic Fund Transfer Act (15  
 21 U.S.C. 1693d(c)(4)) is amended by inserting after the pe-  
 22 riod at the end the following new sentence: “In the case  
 23 of a periodic statement for an account from which with-  
 24 draws may be initiated by a check card (as defined in  
 25 subsection (g)(2)), the notice required under this para-

1 graph shall appear in a conspicuous and prominent loca-  
 2 tion on the periodic statement under a heading indicating  
 3 that the telephone number is a 24-hour, toll-free telephone  
 4 number and the notice shall inform the consumer of the  
 5 importance of promptly reporting any loss or theft of such  
 6 card or any unauthorized use or suspected unauthorized  
 7 use of the card.”.

8 **SEC. 8. PROHIBITION ON FEES FOR INSUFFICIENT FUNDS**  
 9 **IN CASE OF CERTAIN UNAUTHORIZED TRANS-**  
 10 **FERS.**

11 Section 909 of the Electronic Fund Transfer Act (15  
 12 U.S.C. 1693g) (as amended by section 5 of this Act) is  
 13 amended by adding at the end the following new sub-  
 14 section:

15 “(h) PROHIBITION ON CERTAIN FEES.—

16 “(1) IN GENERAL.—A consumer shall not be  
 17 liable for any fee imposed by a financial institution  
 18 for insufficient funds in the account of the consumer  
 19 if the lack of sufficient funds in such account is due  
 20 to an unauthorized electronic fund transfer (from  
 21 such account) initiated by the use of a card without  
 22 the protection of a code or other means of access  
 23 which uniquely identifies the consumer.

24 “(2) PROMPT RECREDIT OF PRIOR FEES.—

25 Upon receiving notice from a consumer of an alleged

1        unauthorized transaction, a financial institution  
2        shall promptly credit the account of a consumer for  
3        any fee described in paragraph (1) which was im-  
4        posed before such notice was received.”.

5    **SEC. 9. PROVISIONAL RECREDIT OF UNAUTHORIZED**  
6                            **TRANSFERS AFTER 5 BUSINESS DAYS.**

7        Section 908(c) of the Electronic Fund Transfer Act  
8        (15 U.S.C. 1693f(c)) is amended by striking “ten business  
9        days” and inserting “5 business days”.

10   **SEC. 10. EFFECTIVE DATE.**

11        The amendments made by this Act shall apply after  
12        the end of the 1-year period beginning on the date of the  
13        enactment of this Act.

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