



2009 ASSEMBLY BILL 745

February 12, 2010 – Introduced by Representatives SMITH, HIXSON, VRUWINK, PASCH, POCAN, GRIGSBY, FIELDS, BENEDICT, RICHARDS, TURNER, SINICKI, YOUNG, HEBL, BERCEAU and A. WILLIAMS, cosponsored by Senators VINEHOUT, LEHMAN, LASSA, TAYLOR and WIRCH. Referred to Committee on Colleges and Universities.

1 **AN ACT** *to create* 36.11 (56), 38.04 (32), 38.12 (14), 165.25 (4) (aw) and 224.50 of
2 the statutes; **relating to:** prohibiting institutions of higher education from
3 engaging in certain activity regarding student credit cards, requiring such
4 institutions to provide financial literacy information to students, creating
5 requirements for credit cards issued to underage customers, granting
6 rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Financial Institutions (DFI) to promulgate rules prohibiting credit card issuers from doing the following: 1) offering a student at an institution of higher education (institution) any tangible item to induce the student to apply for a credit card or participate in an open-end credit plan offered by the issuer; or 2) engaging in any marketing of a credit card involving the physical presence of a representative of the issuer on the campus of an institution. Under the bill, “institution” has the same meaning as under a federal law dealing with similar issues as the bill, which includes public universities, private nonprofit universities, postsecondary proprietary schools, and postsecondary vocational schools.

The bill also requires DFI to promulgate rules prohibiting an institution, or department or other division of an institution, from receiving any payment or compensation for credit card marketing activity on a campus of the institution that is directed at the institution’s students. The bill defines “campus” as the buildings,

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facilities, and grounds under the control of an institution that are primarily related to the institution's operation and related services and activities. Before promulgating any of the foregoing rules, the bill requires DFI to consult with the Board of Regents of the University of Wisconsin (UW) System, the Technical College System Board, the Educational Approval Board, and representatives of private institutions. The bill also prohibits the UW System and technical colleges from selling to or otherwise providing a credit card issuer the names, postal addresses, or electronic mail addresses of students, or engaging in any marketing on behalf of a credit card issuer that is directed at students. The bill defines "student" as an individual enrolled on a full-time or part-time basis. As a result, the bill's requirements do not apply to former students.

In addition, the bill requires each institution to provide information about financial literacy to its students on its Internet Web site and, if the institution offers an on-campus orientation program to new students, to provide the information to students during the orientation. Also, the bill requires an institution's students to complete an online tutorial on financial literacy. The bill does so by prohibiting an institution from allowing an enrolled student from enrolling in a subsequent semester, quarter, or term unless the student completes the tutorial.

The bill also creates requirements for extending credit to individuals who are less than 21 years old. Under the bill, a credit card may not be issued to, or an open-end credit plan established by or on behalf of, such an individual unless one of the following options is satisfied: 1) the application for the card or plan is cosigned by a parent, legal guardian, spouse, or other individual, who is 21 or older, has the means to repay debts, and indicates that he or she is jointly liable for debts incurred before the applicant turns 21; or 2) the applicant submits financial information indicating an independent means to repay debts. The bill requires DFI to promulgate rules for satisfying the second option. The rules must be consistent with regulations that the Board of Governors of the Federal Reserve System is required to promulgate under federal law. Also, if a cosigner described in the first option is jointly liable for credit card debt incurred by an individual who is not 21 years old, the bill prohibits credit increases unless the cosigner approves of the increase in writing and assumes joint liability for the increase.

Finally, except for the prohibitions regarding student information and credit card marketing that apply to the UW System and the technical colleges, the bill provides that a person who violates the bill or a rule promulgated by DFI under the bill is subject to a civil forfeiture of up to \$5,000.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 36.11 (56) of the statutes is created to read:

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1 36.11 **(56)** STUDENT CREDIT CARDS. (a) In this subsection:

2 1. "Credit card issuer" has the meaning give in s. 224.50 (1) (d).

3 2. "Student" means an individual who is enrolled on a full-time or part-time
4 basis in the system.

5 (b) The board may not do any of the following, and shall ensure that each
6 institution and college campus does not do any of the following:

7 1. Sell or otherwise provide to a credit card issuer the names, postal addresses,
8 or electronic mail addresses of students.

9 2. Engage in any marketing on behalf of a credit card issuer that is directed at
10 students.

11 **SECTION 2.** 38.04 (32) of the statutes is created to read:

12 38.04 **(32)** STUDENT CREDIT CARDS. (a) In this subsection:

13 1. "Credit card issuer" has the meaning give in s. 224.50 (1) (d).

14 2. "Student" means an individual who is enrolled on a full-time or part-time
15 basis in a district.

16 (b) The board may not do any of the following:

17 1. Sell or otherwise provide to a credit card issuer the names, postal addresses,
18 or electronic mail addresses of students.

19 2. Engage in any marketing on behalf of a credit card issuer that is directed at
20 students.

21 **SECTION 3.** 38.12 (14) of the statutes is created to read:

22 38.12 **(14)** STUDENT CREDIT CARDS. (a) In this subsection:

23 1. "Credit card issuer" has the meaning give in s. 224.50 (1) (d).

24 2. "Student" has the meaning given in s. 38.04 (32) (a) 2.

25 (b) Each district board may not do any of the following:

ASSEMBLY BILL 745**SECTION 3**

1 1. Sell or otherwise provide to a credit card issuer the names, postal addresses,
2 or electronic mail addresses of students.

3 2. Engage in any marketing on behalf of a credit card issuer that is directed at
4 students.

5 **SECTION 4.** 165.25 (4) (aw) of the statutes is created to read:

6 165.25 (4) (aw) The department of justice shall furnish all legal services
7 required by the department of financial institutions relating to the enforcement of
8 s. 224.50, together with any other services as are necessarily connected to the legal
9 services.

10 **SECTION 5.** 224.50 of the statutes is created to read:

11 **224.50 Credit card protections for young customers. (1) DEFINITIONS.**

12 In this section:

13 (a) “Campus” means buildings, facilities, and grounds under the control of an
14 institution of higher education that are primarily related to the operation of the
15 institution and its related services and activities.

16 (b) “Customer” has the meaning given in s. 421.301 (17).

17 (c) “Credit card” has the meaning given in s. 421.301 (15).

18 (d) “Credit card issuer” means any person who issues a credit card, or the agent
19 of such a person with respect to such card.

20 (e) “Institution of higher education” means an institution of higher education,
21 as defined in 15 USC 1650 (3) (a), but not including an institution that is not located
22 in this state.

23 (f) “Open-end credit plan” has the meaning given in s. 421.301 (27) (a).

24 (g) “Student” means an individual who is enrolled on a full-time or part-time
25 basis in an institution of higher education.

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1 **(2) EXTENSIONS OF CREDIT TO UNDERAGE CUSTOMERS.** (a) No credit card may be
2 issued to, or open-end credit plan established by or on behalf of, a customer who has
3 not attained the age of 21, unless the customer has submitted a written application
4 to the credit card issuer that meets the requirements of par. (b).

5 (b) An application to open a credit card account by a customer who has not
6 attained the age of 21 as of the date of submission of the application shall require one
7 of the following:

8 1. The signature of a cosigner, including the parent, legal guardian, spouse, or
9 any other individual, who has attained the age of 21 having a means to repay debts
10 incurred by the customer in connection with the account, indicating joint liability for
11 debts incurred by the customer in connection with the account before the customer
12 has attained the age of 21.

13 2. Submission by the customer of financial information, including through an
14 application, indicating an independent means of repaying any obligation arising
15 from the proposed extension of credit in connection with the account.

16 (c) The department shall promulgate rules providing standards that, if met,
17 would satisfy the requirements of par. (b) 2. The rules shall be consistent with the
18 regulations of the Board of Governors of the Federal Reserve System under 15 USC
19 1637 (c) (8) (C).

20 (d) No increase may be made in the amount of credit authorized to be extended
21 under a credit card account for which a parent, legal guardian, or spouse of the
22 customer, or any other individual has assumed joint liability for debts incurred by
23 the customer in connection with the account before the customer attains the age of
24 21, unless that parent, guardian, or spouse approves in writing, and assumes joint
25 liability for, such increase.

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1 **(3) CERTAIN MARKETING AND COMPENSATION PROHIBITED.** (a) The department
2 shall promulgate rules prohibiting a credit card issuer from doing any of the
3 following:

4 1. Offering to a student at an institution of higher education any tangible item
5 to induce the student to apply for or participate in an open-end credit plan offered
6 by the credit card issuer.

7 2. Engaging in any marketing of a credit card that involves the physical
8 presence of an individual representing the credit card issuer on the campus of an
9 institution of higher education.

10 (b) The department shall promulgate rules that prohibit an institution of
11 higher education or a department or other division of such an institution from
12 receiving any direct or indirect payment or compensation, monetary or otherwise, for
13 credit card marketing activity on a campus of the institution that is directed at the
14 institution's students.

15 (c) Before promulgating rules under pars. (a) and (b), the department shall
16 consult with the Board of Regents of the University of Wisconsin System, the
17 technical college system board, the educational approval board, and persons whom
18 the department determines represent the interests of private institutions of higher
19 education.

20 **(4) FINANCIAL LITERACY.** (a) Each institution of higher education shall provide
21 to students on its Internet Web site information about financial literacy. If an
22 institution of higher education offers an on-campus orientation program to new
23 students, the institution shall also provide the information to students during the
24 course of the orientation.

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1 (b) No institution of higher education may allow a student enrolled at the
2 institution to enroll in a subsequent semester, quarter, or term, unless the student
3 completes an online tutorial on financial literacy that the institution makes
4 available on an Internet Web site of the institution.

5 (5) PENALTY. Any person who violates this section or a rule promulgated under
6 this section shall be required to forfeit not more than \$5,000.

SECTION 6. Nonstatutory provisions.

7 (1) EFFECT ON CERTAIN CONTRACTS. If any of the following is subject to a contract
8 that is in effect on the effective date of this subsection, and that contains provisions
9 that are inconsistent with sections 36.11 (56) (b), 38.04 (32), or 38.12 (14) (b) of the
10 statutes, as created by this act, then, notwithstanding sections 36.11 (56) (b), 38.04
11 (32), or 38.12 (14) (b) of the statutes, as created by this act, the following may perform
12 its obligations, and exercise its rights, under that contract until the contract expires,
13 is extended, modified, or renewed, whichever occurs first:
14

15 (a) The Board of Regents of the University of Wisconsin System.

16 (b) The technical college system board.

17 (c) A district board, as defined in section 38.01 (6) of the statutes.

18 (2) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,
19 the department of financial institutions may promulgate the rules required under
20 section 224.50 (2) (c) of the statutes, as created by this act, for the period before the
21 permanent rules become effective, but not to exceed the period authorized under
22 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),
23 (2) (b), and (3) of the statutes, the department is not required to provide evidence that
24 promulgating a rule under this subsection as an emergency rule is necessary for the

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1 preservation of the public peace, health, safety, or welfare and is not required to
2 provide a finding of emergency for the rules promulgated under this subsection.

3 **SECTION 7. Initial applicability.**

4 (1) The treatment of section 224.50 (2) of the statutes first applies to credit
5 cards issued and open-end credit plans established on the effective date of this
6 subsection.

7 (2) The treatment of section 224.50 (4) (b) of the statutes first applies to
8 students enrolled at an institution of higher education in the semester, quarter, or
9 term beginning after the effective date of this subsection.

10 **SECTION 8. Effective date.**

11 (1) This act takes effect on the first day of the 4th month beginning after
12 publication.

13 (END)