

June 1, 2018

Governor Bruce Rauner
Office of the Governor
207 State House
Springfield, IL 62706
Phone: 217-782-0244

RE: Opposition to Illinois SB 3102/HB 4922 (Consumer Rebate Cards)

Dear Governor Rauner:

On behalf of the Electronic Transactions Association (“ETA”), we ask that you veto SB 3102/HB 4922 because it would harm consumers and the state as many types of rebates will likely cease to be offered in Illinois and the state’s sales tax revenue will likely decline as a result of these bills.

As background, ETA is the leading trade association for the payments industry, representing over 500 companies that offer electronic transaction processing products and services. ETA’s members include all parts of the electronic payments ecosystem including financial institutions, acquiring banks, merchant service providers and processors, and payment card networks. ETA member companies are creating innovative offerings in financial services, revolutionizing the way commerce is conducted with safe, convenient, secure, and rewarding payment solutions.

Executive Summary

- Contrary to the intent of HB 4922, this bill will likely have unintended consequences for consumers in Illinois due to a reduction in the amount of rebates available in the state increasing the costs of goods and services.
- The State of Illinois will likely see a decrease in collection of sales tax revenue as consumers purchase high tickets items in neighboring states where rebates are still available.
- A number of other states have looked into this issue and all of them have decided this is not a good option.

Bill Summary

SB 31202/HB 4922 would prohibit manufacturers and retailers in Illinois from offering consumers a rebate when the rebate is made on a rebate card that charges post-issuance fees (other than a fee to replace a lost card).

Rebate Cards Overview

The key to understanding the anti-consumer effect of the proposed bills is reviewing the economic model for rebate cards.

In the past, when consumer rebates were paid by check, the rebate fulfillment company would often charge the program sponsor (either a retailer or manufacturer) for processing the rebate fulfillment and check issuance and mailing. When the industry moved from checks to prepaid cards, the program sponsors switched from paying a fee for check fulfillment to receiving prepaid cards for free or at a discount off face because the prepaid card provider would either charge cardholder transaction fees or collect the unredeemed balance after card expiration in order to pay for the significant costs to operate the program including card manufacturing and fulfillment, card processing, cardholder services, fraud monitoring and unclaimed property reporting and remittance. By compensating the prepaid card provider in this manner, the program sponsor can use the cost savings to provide even more rebates to consumers.

In effect, the small number of consumers who don't spend their card balances before the card expiration date pay for additional rebates that are issued to consumers who follow the cardholder terms and conditions as well as numerous disclosures accompanying the card which encourage cardholders to spend the card balance prior to the expiration date.

Specific Comments

While the intent of this bill is to help consumers, SB3102/HB 4922 would likely have the opposite effect. In addition to having negative effects for consumers, it will also have negative effects for the State of Illinois.

HB 4922 would likely have unintended consequences for consumers in Illinois due to reduction of rebate availability the state. Specifically, many types of rebates will likely cease to be offered in Illinois and consumers will be encouraged to shop in adjacent states where they can take advantage of generous rebates offered by retailers and manufacturers. For nationwide rebate programs, you will likely see disclaimers in marketing materials that rebates are available in every state by Illinois sending the message that Illinois is not "open for business."

In addition to the consumer, the State of Illinois would also likely see a decrease in sales tax revenues as consumers will travel to adjacent states in order to take advantage of generous rebates that will no longer be offered in Illinois.

A number of other states have looked into this issue and all of them have decided that rebate cards are good from consumers. Every other state that has looked into the issue has expressly excluded loyalty, award and promotional cards, or LAP Cards (as defined in the CARD Act), from their consumer protection laws governing fee restrictions on prepaid cards.

Conclusion

Signing in law SB 3102/HB 4922 would effectively remove consumer rebates from the Illinois market and encourage Illinois consumers to make the relatively short trip to an adjacent state to make large dollar purchases where rebates are still offered. This is not in the best interest of the State or consumers. The bill would harm consumers and ultimately harm the State Treasury as well from lost sales tax revenues. For these reasons, ETA strongly encourages you to veto SB 3102/HB 4922.

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Thank you for the opportunity to participate in the discussion on this important issue. If you have any additional questions, you can contact me or ETA Senior Vice President, Scott Talbott at stalbott@electran.org.

Respectfully submitted,



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