

THE OHIO COUNCIL OF

Retail Merchants

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**TESTIMONY OF FRANK G. JULIAN IN SUPPORT OF H.B. 112
ON BEHALF OF THE OHIO COUNCIL OF RETAIL MERCHANTS
MAY 14, 2019**

Good evening Chairman Jordan, Vice Chair Hillyer, Ranking Member Crossman and members of the House Financial Institutions Committee.

My name is Frank Julian. I am here today on behalf of the Ohio Council of Retail Merchants and its 7,000+ members throughout the state to speak in support of H.B. 112, which would provide a mechanism for overpaid sales tax to be returned to the retailer that remitted the tax.

The sales tax in Ohio is imposed on the consumer. The retailer is responsible for collecting the tax from the consumer and remitting it to the State. When a consumer makes a purchase using a credit card, the retailer must advance the tax to the State when the purchase is made, even though the consumer is not paying their bill to the retailer until some later point in time.

Under existing Ohio law, if the consumer fails to pay their bill on a retail credit card, the retailer can obtain a credit or refund of the sales tax that it advanced to the State on the consumer's behalf. This law has been on the books for decades and recognizes that the ultimate liability for the sales tax rests with the consumer. If the retailer were not able to obtain a credit or refund of the tax it advances when the consumer defaults, the ultimate liability for the tax would improperly be shifted to the retailer, in effect making the retailer the guarantor of the public fisc.

When the current law was enacted, virtually all retailers owned their own credit cards, and the law worked well for the manner in which business was conducted back then, however, methods of conducting business have changed over the years. Very few of the major retailers carry their own credit any more. They have found it more efficient to engage a private label credit card company to own and manage their credit card programs.

Although the manner of doing business has changed, the tax law in Ohio has not kept up with these changes. While retailers that own their own accounts are still entitled to claim a sales tax bad debt credit or refund in Ohio, retailers that have engaged a private label credit card company cannot obtain a credit or refund of the tax. Likewise, the private label credit card company cannot recover the tax. Thus, in these situations, while the consumer has still not paid their sales tax liability, the State is nonetheless retaining the money. This amounts to an unjust windfall for the State at the expense of the retailer and the private label credit card company.

House Bill 112 would cure this inequity, and modernize Ohio's tax laws, by permitting the retailer to obtain a credit or refund of the sales tax when the consumer fails to pay their bill. California, Florida, Illinois, Michigan, Pennsylvania, Texas and Wisconsin have all enacted similar laws.

Under this bill, the rules for substantiating the amount of the credit would be the same as under current law for retailer-owned accounts. Similarly, if the retailer or the private label credit card company subsequently recovered part or all of the bad debt, the retailer would be required to repay the recovered sales tax to the State, as is also the case under current law.

This bill would only apply to private label credit cards. These are cards that bear the name of a particular retailer, and the tax credit or refund would only be available for purchases made at that specific retailer or its affiliates.

House Bill 112 would modernize Ohio's tax laws, and cure an inequity that now exists in Ohio law. I appreciate the opportunity to testify before you today, and I am happy to answer your questions.