

December 5, 1975

Dear

You have inquired whether your client, a retail business, would be able to grant a 5% cash discount to customers and another 5% discount to any customer whether they paid in cash or credit if the customer carried the goods from the premises rather than utilizing the delivery service of your client. It is our opinion that both types of discount would be permissible if available to all customers. This 5% cash discount, assuming the purchase is not made pursuant to a credit card, appears to come within the terms of Chapter 251 of the Public Laws of 1975:

9-A MRSA §1-301, sub-§19, Para. B, sub-para (iii) is enacted to read:

(iii) the discount not in excess of 5% offered by a creditor or seller for the purpose of inducing payment in cash, check or other means to be made at the time of sale not involving the use of a credit card shall not constitute a finance charge if such discount is offered to all prospective buyers and its availability is disclosed to all prospective buyers clearly and conspicuously.*

The 5% reduction to any customer whether cash or credit, when they do not avail themselves of the merchant's delivery service, would appear to be the type of discount which is beyond the jurisdiction of the Consumer Credit Code if, in fact, it is available to all customers.

Respectfully,

John E. Quinn
Superintendent

JEQ/jh

*AR #88 Amendment

This Advisory Ruling is amended to the extent that it limits the discount a creditor can give to a customer for using cash versus credit to 5%. P.L. 1981, c. 243, AN ACT to Conform The Maine Consumer Credit Code to the Federal Truth-in-Lending Simplification and Reform Act, in §25, replaced Article VII with Article VIII. In §8-303(3) the restriction on discounting in credit card transactions was eliminated to allow any discount, provided its availability was clearly and conspicuously disclosed and it was offered to all prospective buyers. Later, in 1983, the definition of "finance charge" in §1-301(19)(B)(iii) was also amended to remove the 5% limit on discounts, allowing any discounts, provided the offer also met the two conditions on availability noted above (P.L. 1983, c. 720, §4).

07/14/86