

General Business Law §518 provides that it is a misdemeanor punishable by a fine not to exceed five hundred dollars or a term of imprisonment up to one year, or both, for a seller in any sales transaction to impose a surcharge on a holder who elects to use a credit or debit card in lieu of payment by cash, check, or similar means (but does not prohibit cash discounts). In 2016, the U.S. Supreme Court agreed to hear *Expressions Hair Design v. Schneiderman*, a case challenging GBL §518. In 2017, the U.S. Supreme Court vacated and remanded the case to the Second Circuit Court of Appeals to determine whether §518 survives First Amendment scrutiny as a speech regulation, and is not vague as applied to the petitioners in the case. On remand, the Second Circuit certified a question to the New York State Court of Appeals as to "whether a merchant complies with Section 518 so long as the merchant posts the total dollars-and-cents price charged to credit card users." The answer: "By disclosing the total dollars-and-cents price charged to credit card users, a merchant complies with the statute. The process by which the merchant characterizes the higher amount is irrelevant to the statutory requirement. In short, merchants are free to call the price differential anything they wish without fear of prosecution under the statute."