

By the Committees on Rules; Commerce and Tourism; and Banking and Insurance; and Senator Hutson

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1 A bill to be entitled
2 An act relating to interchange fees on taxes; creating
3 s. 501.0119, F.S.; defining terms; providing
4 applicability and construction; prohibiting issuers,
5 payment card networks, acquirer banks, and processors
6 from receiving or charging merchants interchange fees
7 on the tax amounts of electronic payment transactions
8 if the merchant provides certain information in a
9 specified manner; requiring an issuer to credit a
10 merchant the amount of interchange fees on taxes
11 within a certain timeframe if the merchant meets
12 certain conditions; providing a civil penalty;
13 prohibiting specified actions relating to electronic
14 payment transaction data by certain entities;
15 specifying penalties and the enforcing authority for
16 such violations; authorizing the enforcing authority
17 to recover reasonable attorney fees and costs;
18 requiring the Office of Economic and Demographic
19 Research to submit a certain report to the Legislature
20 by a specified date; authorizing the office to
21 contract with certain entities for a specified
22 purpose; providing effective dates.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Effective October 1, 2024, section 501.0119,
27 Florida Statutes, is created to read:

28 501.0119 Interchange fees on taxes prohibited.-

29 (1) As used in this section, the term:

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30 (a) "Acquirer bank" means a member of a payment card
31 network which contracts with a merchant for the settlement of
32 electronic payment transactions. An acquirer bank may contract
33 directly with merchants or indirectly through a processor to
34 process electronic payment transactions.

35 (b) "Authorization" means the process through which a
36 merchant requests approval for an electronic payment transaction
37 from the issuer.

38 (c) "Clearance" means the process of transmitting final
39 transaction data from a merchant to an issuer for posting to the
40 cardholder's account and the calculation of fees and charges,
41 including interchange fees, which apply to the issuer and
42 merchant.

43 (d) "Credit card" means a card, plate, coupon book, or
44 other credit device existing for the purpose of obtaining money,
45 property, labor, or services on credit.

46 (e) "Debit card":

47 1. Means a card, or other payment code or device, issued or
48 approved for use through a payment card network to debit an
49 asset account, regardless of the purpose for which the account
50 is established, whether authorization is based on a signature, a
51 personal identification number, or other means;

52 2. Includes a general-use prepaid card, as defined in 15
53 U.S.C. s. 16931-1; and

54 3. Excludes paper checks.

55 (f) "Electronic payment transaction" means a transaction in
56 which a person uses a debit card, credit card, or other payment
57 code or device issued or approved through a payment card network
58 to debit a deposit account or use a line of credit, whether

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59 authorization is based on a signature, a personal identification
60 number, or other means.

61 (g) "Interchange fee" means a fee established, charged, or
62 received by a payment card network for the purpose of
63 compensating the issuer for its involvement in an electronic
64 payment transaction.

65 (h) "Issuer" means a person issuing a debit card or credit
66 card or the issuer's agent.

67 (i) "Merchant" has the same meaning as the term "dealer" in
68 s. 212.06(2).

69 (j) "Payment card network" means an entity:

70 1. That directly or through licensed members, processors,
71 or agents provides the proprietary services, infrastructure, and
72 software that route information and data to conduct electronic
73 payment transaction authorization, clearance, and settlement;
74 and

75 2. That a merchant uses to accept as a form of payment a
76 brand of debit card, credit card, or other device that may be
77 used to carry out electronic payment transactions.

78 (k) "Processor" means an entity that facilitates, services,
79 processes, or manages the debit or credit authorization,
80 billing, transfer, payment procedures, or settlement with
81 respect to any electronic payment transaction.

82 (l) "Settlement" means the process of transmitting sales
83 information to the issuing bank for collection and reimbursement
84 of funds to the merchant and calculating and reporting the net
85 transaction amount to the issuer and merchant for an electronic
86 payment transaction that is cleared.

87 (m) "Tax" means all taxes and fees levied under chapter 212

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88 and s. 125.0104.

89 (n) "Tax documentation" means documentation sufficient for
90 the payment card network to determine the total amount of the
91 electronic payment transaction and the tax amount of such
92 transaction. Tax documentation may be related to a single
93 electronic payment transaction or multiple electronic payment
94 transactions aggregated over a period of time. Examples of tax
95 documentation include, but are not limited to, invoices,
96 receipts, journals, ledgers, and tax returns filed with the
97 Department of Revenue or local taxing authorities.

98 (2) This section does not apply to an electronic payment
99 transaction in which the tax amount is not separately stated on
100 the consumer's payment invoice, sales slip, or other evidence of
101 sale as required under s. 212.07(2).

102 (3) This section does not create liability for a payment
103 card network regarding the accuracy of the tax data reported by
104 the merchant.

105 (4) Except as provided in subsection (2), an issuer, a
106 payment card network, an acquirer bank, or a processor may not
107 receive or charge the merchant any interchange fees on the tax
108 amount of an electronic payment transaction if the merchant
109 informs the acquirer bank or its designee of such tax amount as
110 part of the authorization or settlement process for the
111 electronic payment transaction. A merchant must transmit the tax
112 amount data as part of the authorization or settlement process
113 to avoid being charged interchange fees on the tax amount of an
114 electronic payment transaction.

115 (5) A merchant that does not transmit the tax amount data
116 in accordance with subsection (4) may submit tax documentation

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117 for the electronic payment transaction to the acquirer bank or
118 its designee no later than 180 days after the date of the
119 electronic payment transaction, and within 30 days, the issuer
120 must credit to the merchant the amount of interchange fees
121 charged on the tax amount of the electronic payment transaction.

122 (6) An issuer, a payment card network, an acquirer bank, a
123 processor, or other designated entity that has received the tax
124 amount data and violates this section is subject to a civil
125 penalty of \$1,000 per electronic payment transaction, and the
126 issuer must refund the merchant the interchange fee calculated
127 on the tax amount relative to the electronic payment
128 transaction.

129 (7) An entity, other than the merchant, involved in
130 facilitating or processing an electronic payment transaction,
131 including, but not limited to, an issuer, a payment card
132 network, an acquirer bank, a processor, or other designated
133 entity, may not distribute, exchange, transfer, disseminate, or
134 use the electronic payment transaction data except to facilitate
135 or process the electronic payment transaction or as required by
136 law. A violation of this subsection constitutes a violation of
137 the Florida Deceptive and Unfair Trade Practices Act under part
138 II of this chapter. Notwithstanding s. 501.211, a violation of
139 this subsection must be enforced only by the enforcing authority
140 as defined in s. 501.203(2) and subjects the violator to the
141 sanctions and penalties provided for in part II of this chapter.
142 If such action is successful, the enforcing authority is
143 entitled to reasonable attorney fees and costs.

144 Section 2. The Office of Economic and Demographic Research
145 (EDR) shall submit a report to the President of the Senate and

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146 the Speaker of the House of Representatives by January 9, 2024,
147 containing findings of any policy options related to the
148 implementation of prohibiting interchange fees on taxes. The
149 report must address the impacts of the legislation, including,
150 but not limited to, technological, financial, and economic
151 impacts on merchants, processors, payment card networks,
152 acquiring banks, and issuers. EDR may contract with a public or
153 private institution of higher learning or a nationally
154 recognized organization or entity with experience in performing
155 this type of evaluation for the sole purpose of developing some
156 or all of the underlying analysis and findings to be included in
157 the report.

158 Section 3. Except as otherwise expressly provided in this
159 act, this act shall take effect upon becoming a law.