

LC004939

JANUARY SESSION, A.D. 2026

17 (5) "Payment card" means a credit card, debit card, check card, or other card that is issued
18 to an authorized user to purchase or obtain goods, services, money, or any other thing of value.

1 (6) "Payment card issuer" means a lender, including a financial institution, or a merchant
2 that receives applications and issues payment cards to individuals.

3 (7) "Payment card network" means an entity that directly, or through a licensed member,
4 processor, or agent, provides the proprietary services, infrastructure, and software that route
5 information and data to conduct debit card or credit card transaction authorization, clearance, and
6 settlement and that an entity uses in order to accept as a form of payment a brand of debit card,
7 credit card, or other device that may be used to carry out debit or credit transactions.

8 (8) "State or local tax" means any sales, use, occupancy, or excise tax imposed by the state
9 or a political subdivision thereof.

10 (9) "Swipe fee" means the interchange fee and, if applicable, the assessment fee.

11 **6-26.2-2. Exclusion of state or local taxes and gratuity from swipe fees -- Merchant**
12 **deduction or rebate.**

13 (a) The amount of state or local tax that is calculated as a percentage of the amount of an
14 electronic payment transaction made in this state and gratuity that is listed separately on a payment
15 invoice or other demand for payment shall be excluded from the total amount on which a swipe fee
16 is charged for that transaction.

17 (b) A payment card network shall, with respect to each form or type of electronic payment
18 transaction:

19 (1) Deduct the amount of state or local tax imposed and gratuity from the calculation of
20 swipe fees attributable to the transaction at the time of settlement; or

21 (2) Rebate the merchant an amount equal to the amount of swipe fees attributable to the
22 state or local tax imposed and gratuity on the transaction.

23 (c) A deduction or rebate under this section shall occur at the time of settlement when the
24 merchant is able to capture and transmit state or local tax or fee amounts and gratuity relevant to
25 the sale at the time of sale as part of the transaction finalization. If a merchant is unable to capture
26 and transmit tax or fee and gratuity amounts relevant to the sale at the time of sale, then the payment
27 card network shall accept proof of tax or fee amounts and gratuity collected on sales subject to a
28 swipe fee on the submission of sales data by the merchant and provide the rebate no later than one
29 hundred eighty (180) days after the date of the electronic payment transaction, and, within thirty
30 (30) days after the merchant submits the sales data.

31 (d) This section shall not create liability for a payment card network regarding the accuracy
32 of the tax or gratuity data reported by the merchant.

33 (e) It shall be unlawful for a payment card issuer or a payment card network to alter or
34 manipulate the computation and imposition of swipe fees by increasing the rate or amount of the

1 fees applicable to or imposed upon the portion of an electronic payment transaction not attributable
2 to taxes or gratuities to circumvent the effect of this section.

3 **6-26.2-3. Penalties.**

4 (a) A person who violates this chapter shall be subject to a civil penalty not to exceed one
5 thousand dollars (\$1,000) for each violation.

6 (b) The attorney general:

7 (1) May bring an action to recover the civil penalty imposed under this section;

8 (2) May obtain a temporary or permanent injunction to restrain the violation; and

9 (3) Shall deposit a civil penalty collected under this section in the state treasury to the credit
10 of the general revenue fund.

11 (c) A person who violates this chapter shall refund a merchant any swipe fees charged in
12 violation of this chapter.

13 **6-26.2-4. Severability.**

14 If any of the provisions of this chapter are held invalid, the remainder shall not be affected
15 as a result; nor shall the application of the provision held invalid to persons or circumstances other
16 than those as to which it is held invalid be affected as a result.

17 SECTION 2. This act shall take effect on January 1, 2027.

=====
LC004939
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS -- SWIPE
FEES

- 1 This act would prohibit the charging of swipe fees on taxes and gratuities.
- 2 This act would take effect on January 1, 2027.

=====
LC004939
=====