

LC005213

## IN GENERAL ASSEMBLY

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RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS --  
INTERCHANGE FEE RESTRICTION ACT

Referred To: Senate Commerce

1           SECTION 1. Title 6 of the General Laws entitled "COMMERCIAL LAW — GENERAL  
2   REGULATORY PROVISIONS" is hereby amended by adding thereto the following chapter:

## INTERCHANGE FEE RESTRICTION ACT

As used in this chapter:

18           (4) "Credit card" means a card, plate, coupon book, or other credit device existing for the

1 purpose of obtaining money, property, labor, or services on credit.

2 (5) "Debit card" means a card or other payment code or device issued or approved for use  
3 through a payment card network to debit an asset account, regardless of the purpose for which the  
4 account is established, whether authorization is based on a signature, a personal identification  
5 number, or other means. Debit card includes a general use prepaid card, as defined in 15 U.S.C.  
6 16931-1. Debit card does not include paper checks.

7 (6) "Electronic payment transaction" means a transaction in which a person uses a debit  
8 card, a credit card, or other payment code or device issued or approved through a payment card  
9 network to debit a deposit account or use a line of credit, whether authorization is based on a  
10 signature, a personal identification number, or other means.

11 (7) "Interchange fee" means a fee established, charged, or received by a payment card  
12 network for the purpose of compensating the issuer for its involvement in an electronic payment  
13 transaction.

14 (8) "Issuer" means a person issuing a debit card or credit card or the issuer's agent.

15 (9) "Merchant" means a person that collects and remits a tax.

16 (10) "Payment card network" means an entity that:

17 (i) Directly or through licensed members, processors, or agents, provides the proprietary  
18 services, infrastructure, and software to route information and data for the purpose of conducting  
19 electronic payment transaction authorization, clearance, and settlement; and

20 (ii) A merchant uses to accept as a form of payment a brand of debit card, credit card, or  
21 other device that may be used to carry out electronic payment transactions.

22 (11) "Person" means any individual, firm, public or private corporation, government,  
23 partnership, association, or any other organization or entity.

24 (12) "Processor" means an entity that facilitates, services, processes, or manages the debit  
25 or credit authorization, billing, transfer, payment procedures, or settlement with respect to any  
26 electronic payment transaction.

27 (13) "Settlement" means the process of transmitting sales information to the issuing bank  
28 for collection and reimbursement of funds to the merchant and calculating and reporting the net  
29 transaction amount to the issuer and merchant for an electronic payment transaction that is cleared.

30 (14) "Tax" means any sales and use tax or excise tax imposed by the state or a municipality.

31 (15) "Tax documentation" means documentation sufficient for the payment card network  
32 to determine the total amount of the electronic payment transaction and the tax amount of the  
33 transaction. Tax documentation may be related to a single electronic payment transaction or  
34 multiple electronic payment transactions aggregated over a period of time. Tax documentation

1 includes, but is not limited to, invoices, receipts, journals, ledgers, and tax returns filed with the  
2 department of revenue or local taxing authorities.

3 **6-26.2-3. Interchange fees on taxes prohibited.**

4 (a) An issuer, a payment card network, an acquirer bank, or a processor shall not receive  
5 or charge a merchant any interchange fee on the tax amount of an electronic payment transaction  
6 if the merchant informs the acquirer bank or its designee of the tax amount as part of the  
7 authorization or settlement process for the electronic payment transaction. The merchant shall  
8 transmit the tax amount data as part of the authorization or settlement process to avoid being  
9 charged interchange fees on the tax amount of an electronic payment transaction.

10 (b) A merchant that does not transmit the tax amount data in accordance with subsection  
11 (a) of this section may submit tax documentation for the electronic payment transaction to the  
12 acquirer bank or its designee no later than one hundred eighty (180) days after the date of the  
13 electronic payment transaction, and within thirty (30) days after the merchant submits the necessary  
14 tax documentation, the issuer shall credit to the merchant the amount of interchange fees charged  
15 on the tax amount of the electronic payment transaction.

16 (c) This section does not create liability for a payment card network regarding the accuracy  
17 of the tax data reported by the merchant.

18 (d) It shall be unlawful for an issuer, a payment card network, an acquirer bank, or a  
19 processor to alter or manipulate the computation and imposition of interchange fees by increasing  
20 the rate or amount of the fees applicable to or imposed upon the portion of a credit or debit card  
21 transaction not attributable to taxes or other fees charged to the retailer to circumvent the effect of  
22 this section.

23 **6-26.2-4. Penalties.**

24 An issuer, a payment card network, an acquirer bank, a processor, or other designated entity  
25 that has received the tax amount data and violates § 6-26.2-3 shall have engaged in a deceptive  
26 trade practice in violation of the provisions of chapter 13.1 of title 6 and shall be subject to a civil  
27 penalty of up to one thousand dollars (\$1,000) per electronic payment transaction in violation of §  
28 6-26.2-3, and the issuer shall be responsible to refund the merchant the interchange fee calculated  
29 on the tax amount relative to the electronic payment transaction.

30 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS --  
INTERCHANGE FEE RESTRICTION ACT

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- 1           This act would create the interchange fee restriction act prohibiting interchange fees on
- 2 sales and use tax or excise tax when payment is made with a credit or debit card.
- 3           This act would take effect upon passage.

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