

STATE OF NEW YORK

5558

2025-2026 Regular Sessions

IN SENATE

February 25, 2025

Introduced by Sen. COONEY -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to enacting the "interchange fee prohibition act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "interchange fee prohibition act".

3 § 2. The general business law is amended by adding a new article 42-A
4 to read as follows:

ARTICLE 42-A

INTERCHANGE FEE PROHIBITION ACT

Section 1200. Definitions.

1201. Interchange fees on taxes prohibited.

1202. Penalties.

10 § 1200. Definitions. For the purposes of this article, the following
11 terms shall have the following meanings:

12 1. "acquirer bank" means a member of a payment card network that
13 contracts with a merchant for the settlement of electronic payment tran-
14 sactions. An acquirer bank may contract directly with merchants or indi-
15 rectly through a processor to process electronic payment transactions;

16 2. "authorization" means the process through which a merchant requests
17 approval for an electronic payment transaction from the issuer;

18 3. "clearance" means the process of transmitting final transaction
19 data from a merchant to an issuer for posting to the cardholder's
20 account and the calculation of fees and charges, including interchange
21 fees, that apply to the issuer and the merchant;

22 4. "credit card" means a card, plate, coupon book, or other credit
23 device existing for the purpose of obtaining money, property, labor, or
24 services on credit;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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

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

13 7. "gratuity" means a voluntary monetary contribution to an employee
14 from a guest, patron, or customer in connection with services rendered;

15 8. "interchange fee" means a fee established, charged, or received by
16 a payment card network for the purpose of compensating the issuer for
17 its involvement in an electronic payment transaction;

18 9. "issuer" means a person issuing a debit card or credit card or the
19 issuer's agent;

20 10. "merchant" means a person that collects and remits a tax;

21 11. "payment card network" means an entity that:

22 (a) directly or through licensed members, processors, or agents,
23 provides the proprietary services, infrastructure, and software to route
24 information and data for the purpose of conducting electronic payment
25 transaction authorization, clearance, and settlement; and

26 (b) a merchant uses to accept as a form of payment a brand of debit
27 card, credit card, or other device that may be used to carry out elec-
28 tronic payment transactions;

29 12. "person" means any individual, firm, public or private corpo-
30 ration, government, partnership, association, or any other organization
31 or entity;

32 13. "processor" means an entity that facilitates, services, processes,
33 or manages the debit or credit authorization, billing, transfer, payment
34 procedures, or settlement with respect to any electronic payment trans-
35 action;

36 14. "settlement" means the process of transmitting sales information
37 to the issuing bank for collection and reimbursement of funds to the
38 merchant and calculating and reporting the net transaction amount to the
39 issuer and merchant for an electronic payment transaction that is
40 cleared;

41 15. "tax" means any sales and use tax or excise tax imposed by the
42 state or a unit of local government in the state; and

43 16. "tax documentation" means documentation sufficient for the payment
44 card network to determine the total amount of the electronic payment
45 transaction and the tax or gratuity amount of the transaction. Tax
46 documentation may be related to a single electronic payment transaction
47 or multiple electronic payment transactions aggregated over a period of
48 time. Examples of tax documentation include, but are not limited to,
49 invoices, receipts, journals, ledgers, and tax returns filed with the
50 department of taxation and finance or local taxing authorities.

51 § 1201. Interchange fees on taxes prohibited. 1. An issuer, a payment
52 card network, an acquirer bank, or a processor shall not receive or
53 charge a merchant any interchange fee on the tax amount or gratuity of
54 an electronic payment transaction if the merchant informs the acquirer
55 bank or its designee of the tax or gratuity amount as part of the
56 authorization or settlement process for the electronic payment trans-

1 action. The merchant shall transmit the tax or gratuity amount data as
2 part of the authorization or settlement process to avoid being charged
3 interchange fees on the tax or gratuity amount of an electronic payment
4 transaction.

5 2. A merchant that does not transmit the tax or gratuity amount data
6 in accordance with this section may submit tax documentation for the
7 electronic payment transaction to the acquirer bank or its designee no
8 later than one hundred eighty days after the date of the electronic
9 payment transaction, and, within thirty days after the merchant submits
10 the necessary tax documentation, the issuer must credit to the merchant
11 the amount of interchange fees charged on the tax or gratuity amount of
12 the electronic payment transaction.

13 3. This section does not create liability for a payment card network
14 regarding the accuracy of the tax or gratuity data reported by the
15 merchant.

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

22 § 1202. Penalties. 1. An issuer, a payment card network, an acquirer
23 bank, a processor, or other designated entity that has received the tax
24 or gratuity amount data and violates section twelve hundred one of this
25 article is subject to a civil penalty of one thousand dollars per elec-
26 tronic payment transaction, and the issuer shall refund the merchant the
27 interchange fee calculated on the tax or gratuity amount relative to the
28 electronic payment transaction.

29 2. An entity, other than the merchant, involved in facilitating or
30 processing an electronic payment transaction, including, but not limited
31 to, an issuer, a payment card network, an acquirer bank, a processor, or
32 other designated entity, may not distribute, exchange, transfer, dissem-
33 inate, or use the electronic payment transaction data except to facili-
34 tate or process the electronic payment transaction or as required by
35 law. A violation of this subdivision constitutes a violation of article
36 twenty-two-A of this chapter.

37 § 3. Severability. If any clause, sentence, paragraph, subdivision,
38 section or part of this act shall be adjudged by any court of competent
39 jurisdiction to be invalid, such judgment shall not affect, impair, or
40 invalidate the remainder thereof, but shall be confined in its operation
41 to the clause, sentence, paragraph, subdivision, section or part thereof
42 directly involved in the controversy in which such judgment shall have
43 been rendered. It is hereby declared to be the intent of the legislature
44 that this act would have been enacted even if such invalid provisions
45 had not been included herein.

46 § 4. This act shall take effect on the one hundred eightieth day after
47 it shall have become a law.