

STATE OF NEW YORK

4017--A

2025-2026 Regular Sessions

IN ASSEMBLY

January 30, 2025

Introduced by M. of A. McDONALD, KAY, SANTABARBARA, WOERNER, CONRAD, REYES, LEE, YEGER, NOVAKHOV, SIMPSON, GALLAHAN, HAWLEY, CHANG, MAGNARELLI, SCHIAVONI, COLTON, P. CARROLL, BUTTENSCHON, LUNSFORD, BURROUGHS, BEEPHAN, MANKTELOW, MORINELLO, ANGELINO, McDONOUGH, PALMESANO, BAILEY, CHLUDZINSKI, DeSTEFANO, PIROZZOLO, KASSAY, LEMONDES, GRIFFIN, MOLITOR, FALL, BURDICK, LEVENBERG, ROMERO, GALLAGHER, SIMON, SAYEGH, McMAHON, BENDETT, GIGLIO, GRAY -- read once and referred to the Committee on Consumer Affairs and Protection -- recommitted to the Committee on Consumer Affairs and Protection in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to the calculation of interchange fees charged by credit card networks

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

1 Section 1. The general business law is amended by adding a new article
2 42-A to read as follows:

3 ARTICLE 42-A
4 INTERCHANGE FEES

5 Section 1120. Definitions.

6 1121. Calculation of interchange fees.

7 1122. Rebate of fees on tax amount.

8 1123. Penalties.

9 § 1120. Definitions. For purposes of this article:

10 1. "Credit card" means a card, plate, coupon book, or other credit
11 device existing for the purpose of obtaining money, property, labor, or
12 services on credit.

13 2. "Debit card":

14 (a) means a card, or other payment code or device, issued or approved
15 for use through a payment card network to debit an asset account,
16 regardless of the purpose for which the account is established, whether

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

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1 authorization is based on signature, personal identification number, or
2 other means; and

3 (b) includes a general-use prepaid card, as defined in 15 U.S.C. §
4 16931-1; and

5 (c) does not include paper checks.

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

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

14 5. "Issuer" means a person issuing a debit card or credit card, or the
15 issuer's agent.

16 6. "Payment card network" means an entity that:

17 (a) directly, or through licensed members, processors, or agents
18 provides the proprietary services, infrastructure, and software that
19 routes information and data to conduct debit card or credit card trans-
20 action authorization, clearance, and settlement; and

21 (b) a merchant or seller uses in order to accept as a form of payment
22 a brand of debit card, credit card, or other device that may be used to
23 carry out debit or credit transactions.

24 7. "Settlement" means the transfer of funds from a customer's account
25 to a seller or merchant upon electronic submission of finalized sales
26 transactions to the payment card network.

27 § 1121. Calculation of interchange fees. 1. The amount of a state or
28 local tax or fee that is calculated as a percentage of an electronic
29 payment transaction amount and listed separately on the payment invoice
30 or other demand for payment must be excluded from the amount on which an
31 interchange fee is charged for that electronic payment transaction. Such
32 taxes and fees include, but are not limited to:

33 (a) sales and compensating use taxes under article twenty-eight of the
34 tax law;

35 (b) hotel and motel and occupancy taxes under article twenty-nine of
36 the tax law;

37 (c) taxes on alcoholic beverages under article eighteen of the tax
38 law;

39 (d) tax on gasoline and motor fuel under article twelve-A of the tax
40 law;

41 (e) tax on petroleum businesses under article thirteen-A of the tax
42 law;

43 (f) tax on fuel use under article twenty-one-A of the tax law;

44 (g) rental vehicle taxes under article twenty-eight-A of the tax law;

45 and

46 (h) gratuities.

47 2. A payment card network may not alter or manipulate the computation
48 and imposition of interchange fees by increasing the rate or amount of
49 the fees applicable to or imposed upon the portion of a credit or debit
50 card transaction not attributable to the sales tax or gratuity amount or
51 other fees charged to the retailer to circumvent the effect of this
52 article.

53 § 1122. Rebate of fees on tax amount. 1. A payment card network shall
54 either:

1 (a) deduct the amount of any tax or gratuities imposed from the calcu-
2 lation of interchange fees specific to each form or type of electronic
3 payment transaction at the time of settlement; or

4 (b) rebate an amount of interchange fee proportionate to the amount
5 attributable to the tax or fee and/or gratuities.

6 2. A deduction or rebate must occur at the time of settlement when the
7 merchant or seller is able to capture and transmit tax or fee and/or
8 gratuity amounts relevant to the sale at the time of sale as part of the
9 transaction finalization.

10 3. If a merchant or seller is unable to capture and transmit tax or
11 fee and/or gratuity amounts relevant to the sale at the time of sale,
12 then the payment card network shall accept proof of tax or fee amounts
13 collected on sales subject to an interchange fee upon the submission of
14 sales data by the merchant or seller and promptly credit the merchant or
15 seller's settlement account.

16 § 1123. Penalties. A payment card network that violates this article
17 is subject to a civil penalty of not more than one thousand dollars per
18 violation and shall also refund the surcharge to each merchant or seller
19 from whom such fees were collected.

20 § 2. This act shall take effect on the first of July next succeeding
21 the date on which it shall have become a law.