STATE OF NEW YORK

6603

2025-2026 Regular Sessions

IN ASSEMBLY

March 6, 2025

Introduced by M. of A. LEE -- read once and referred to the Committee on Consumer Affairs and 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:

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

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

ARTICLE 42-A

INTERCHANGE FEE PROHIBITION ACT

Section 1200. Definitions.

1201. Interchange fees on taxes prohibited.

1202. Penalties.

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

1. "acquirer bank" means a member of a payment card network that contracts with a merchant for the settlement of electronic payment transactions. An acquirer bank may contract directly with merchants or indirectly through a processor to process electronic payment transactions;

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

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

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

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

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

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

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

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

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

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

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

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

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

12. "person" means any individual, firm, public or private corporation, government, partnership, association, or any other organization or entity;

13. "processor" means an entity that facilitates, services, processes, or manages the debit or credit authorization, billing, transfer, payment procedures, or settlement with respect to any electronic payment transaction;

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

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

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

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

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

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

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

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

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

2. An entity, other than the merchant, involved in facilitating or processing an electronic payment transaction, including, but not limited to, an issuer, a payment card network, an acquirer bank, a processor, or other designated entity, may not distribute, exchange, transfer, disseminate, or use the electronic payment transaction data except to facilitate or process the electronic payment transaction or as required by law. A violation of this subdivision constitutes a violation of article twenty-two-A of this chapter.

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

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