

FIRST REGULAR SESSION

HOUSE BILL NO. 1274

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BAKER.

2623H.01I

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to interchange fees, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 407, RSMo, is amended by adding thereto one new section, to be known as section 407.3200, to read as follows:

407.3200. 1. The provisions of this section shall be known and cited as the "Interchange Fee Prohibition Act".

2. For purposes of this section, the following terms mean:

(1) "Acquirer bank", 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", the process through which a merchant requests approval for an electronic payment transaction from the issuer;

(3) "Clearance", 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", a card, plate, coupon book, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit;

(5) "Debit card", 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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 personal identification number, or other means. The term "debit card" includes a
19 general use prepaid card, as defined in 15 U.S.C. Section 16931-1, and does not include
20 paper checks;

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

25 (7) "Interchange fee", a fee established, charged, or received by a payment card
26 network for the purpose of compensating the issuer for its involvement in an electronic
27 payment transaction;

28 (8) "Issuer", a person issuing a debit card or credit card or the issuer's agent;

29 (9) "Merchant", a person who collects and remits a tax;

30 (10) "Payment card network", an entity that:

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

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

37 (11) "Person", any individual, firm, public or private corporation, government,
38 partnership, association, or any other organization or entity;

39 (12) "Processor", an entity that facilitates, services, processes, or manages a
40 debit or credit authorization, billing, transfer, payment procedures, or settlement with
41 respect to any electronic payment transaction;

42 (13) "Settlement", the process of transmitting sales information to the issuing
43 bank for collection and reimbursement of funds to the merchant and calculating and
44 reporting the net transaction amount to the issuer and merchant for an electronic
45 payment transaction that is cleared;

46 (14) "Tax", any use and occupation tax or excise tax imposed by the state or a
47 unit of local government of the state;

48 (15) "Tax documentation", documentation sufficient for the payment card
49 network to determine the total amount of the electronic payment transaction and the tax
50 amount of the transaction. Tax documentation may be related to a single electronic
51 payment transaction or multiple electronic payment transactions aggregated over a
52 period of time. Examples of tax documentation include, but are not limited to, invoices,
53 receipts, journals, ledgers, and tax returns filed with the department of revenue or local
54 taxing authorities.

55 **3. An issuer, a payment card network, an acquirer bank, or a processor shall not**
56 **receive or charge a merchant any interchange fee on the tax amount of an electronic**
57 **payment transaction if the merchant informs the acquirer bank or its designee of the tax**
58 **amount as part of the authorization or settlement process for the electronic payment**
59 **transaction. The merchant shall transmit the tax amount data as part of the**
60 **authorization or settlement process to avoid being charged interchange fees on the tax**
61 **amount of an electronic payment transaction.**

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

68 **5. This section does not create liability for a payment card network regarding**
69 **the accuracy of the tax data reported by the merchant.**

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

75 **7. An issuer, a payment card network, an acquirer bank, a processor, or other**
76 **designated entity that has received the tax amount data and violates this section is**
77 **subject to a civil penalty of one thousand dollars per electronic payment transaction,**
78 **and the issuer shall refund the merchant the interchange fee calculated on the tax**
79 **amount relative to the electronic payment transaction.**

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