

1 **SENATE FLOOR VERSION**

2 February 25, 2021

3 **AS AMENDED**

4 SENATE BILL NO. 798

5 By: Leewright

6  
7 **[ credit card interchange fees - codification -**  
8 **effective date -**  
9 **emergency ]**

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11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1025 of Title 15, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. For purposes of this section:

16 1. "Credit card" means any card, plate, coupon book or other  
17 credit device existing for the purpose of obtaining money, property,  
18 labor or services on credit;

19 2. "Debit card" means any card or other payment code or device,  
20 issued or approved for use through a payment card network to debit an  
21 asset account, regardless of the purpose for which the account is  
22 established, whether authorization is based on signature, personal  
23 identification number or other means:

1 a. includes a general-use prepaid card, as defined in 15  
2 U.S.C. §16931-1(a)(2)(A), and

3 b. does not include paper checks;

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

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

12 5. "Issuer" means a person issuing a debit card or credit card,  
13 or the issuer's agent;

14 6. "Payment card network" means an entity that directly or  
15 through licensed members, processors or agents provides the  
16 proprietary services, infrastructure and software that routes  
17 information and data to conduct debit card or credit card  
18 transaction authorization, clearance and settlement and a merchant  
19 or seller uses in order to accept as a form of payment a brand of  
20 debit card, credit card or other device that may be used to carry out  
21 debit or credit transactions; and

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

1 B. The amount of any state or local sales tax or fee that is  
2 calculated as a percentage of an electronic payment transaction  
3 amount and listed separately on the payment invoice or other demand  
4 for payment, or the amount of any taxes imposed under the Oklahoma  
5 Tax Code, must be excluded from the amount on which an interchange  
6 fee is charged for that electronic payment transaction. Such taxes  
7 and fees include, but are not limited to, sales and use taxes under  
8 the Oklahoma Tax Code as follows:

- 9 1. Sales taxes on sale of merchandise and services;
- 10 2. Hotel occupancy taxes;
- 11 3. Alcoholic beverage taxes; and
- 12 4. Rental vehicle surcharge taxes.

13 C. A payment card network shall either:

- 14 1. Deduct the amount of any tax imposed from the calculation of  
15 interchange fees specific to each form or type of electronic payment  
16 transaction at the time of settlement; or
- 17 2. Rebate an amount of interchange fee proportionate to the  
18 amount attributable to the tax or fee.

19 D. Any deduction or rebate must occur at the time of settlement  
20 when the merchant or seller is able to capture and transmit tax or  
21 fee amounts relevant to the sale at the time of sale as part of the  
22 transaction finalization.

23 E. If a merchant or seller is unable to capture and transmit  
24 tax or fee amounts relevant to the sale at the time of sale, the

1 payment card network shall accept proof of tax or fee amounts  
2 collected on sales subject to an interchange fee upon the submission  
3 of sales data by the merchant or seller and promptly credit the  
4 merchant or seller's settlement account.

5 F. A payment card network that fails to comply with the  
6 provisions of this section shall be subject to a civil penalty of not  
7 more than One Thousand Dollars (\$1,000.00) per violation, payable to  
8 the plaintiff, and shall refund the surcharge to each merchant or  
9 seller. The Attorney General shall bring an action to enforce  
10 violations and collect civil penalties in the Oklahoma County  
11 District Court.

12 SECTION 2. This act shall become effective July 1, 2021.

13 SECTION 3. It being immediately necessary for the preservation  
14 of the public peace, health or safety, an emergency is hereby  
15 declared to exist, by reason whereof this act shall take effect and  
16 be in full force from and after its passage and approval.

17 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
18 February 25, 2021 - DO PASS AS AMENDED  
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