

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 798

By: Leewright

AS INTRODUCED

An Act relating to credit card interchange fees; defining terms; requiring certain taxes and fees be excluded from certain interchange fee charges; stating certain taxes and fees to be excluded; directing deduction of tax from interchange fee calculations; providing for rebates of interchange fees; stating when deduction and rebate apply; providing alternate method to prove collected taxes; authorizing civil penalty for violations; stating maximum penalty amount; directing refund for violation; authorizing Attorney General to bring civil action in certain district court; providing for codification; providing an effective date; and declaring an emergency.

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

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

A. For purposes of this section:

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

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

- 6 a. includes a general-use prepaid card, as defined in 15
7 U.S.C. §16931-1(a) (2) (A), and
8 b. does not include paper checks;

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

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

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

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

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

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

- 14 1. Sales taxes on sale of merchandise and services;
- 15 2. Hotel occupancy taxes;
- 16 3. Alcoholic beverage taxes; and
- 17 4. Rental vehicle surcharge taxes.

18 C. A payment card network shall either:

- 19 1. Deduct the amount of any tax imposed from the calculation of
20 interchange fees specific to each form or type of electronic payment
21 transaction at the time of settlement; or
 - 22 2. Rebate an amount of interchange fee proportionate to the
23 amount attributable to the tax or fee.
- 24

1 D. Any deduction or rebate must occur at the time of settlement
2 when the merchant or seller is able to capture and transmit tax or
3 fee amounts relevant to the sale at the time of sale as part of the
4 transaction finalization.

5 E. If a merchant or seller is unable to capture and transmit
6 tax or fee amounts relevant to the sale at the time of sale, the
7 payment card network shall accept proof of tax or fee amounts
8 collected on sales subject to an interchange fee upon the submission
9 of sales data by the merchant or seller and promptly credit the
10 merchant or seller's settlement account.

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

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

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