

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 2181

By: Johns

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6 AS INTRODUCED

7 An Act relating to revenue and taxation; defining
8 terms; requiring calculation for credit and debit
9 card service fees to exclude state and local taxes;
10 providing process for collection of service fees by
11 payment card network; creating civil penalty for
12 violation; providing for codification; and providing
13 an effective date.

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

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 296 of Title 68, unless there is
17 created a duplication in numbering, reads as follows:

18 A. For purposes of this section:

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

22 2. "Debit card" shall:

23 a. mean any card, or other payment code or device, issued
24 or approved for use through a payment card network to
debit an asset account, regardless of the purpose for

1 which the account is established, whether
2 authorization is based on signature, personal
3 identification number, or other means,

4 b. include a general-use prepaid card, as defined in 15
5 U.S.C., Section 16931-1(a)(2)(A), and

6 c. not include paper checks;

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

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

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

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

19 a. directly, or through licensed members, processors, or
20 agents, provides the proprietary services,
21 infrastructure, and software that routes information
22 and data to conduct debit card or credit card
23 transaction authorization, clearance, and settlement,
24 and

1 b. a merchant or seller uses in order to accept as a form
2 of payment a brand of debit card, credit card, or
3 other device that may be used to carry out debit or
4 credit transactions;

5 7. "Service fee" means a fee established, charged, or received
6 by a payment card network for the purpose of compensating the issuer
7 for its involvement in an electronic payment transaction; and

8 8. "Settlement" means the transfer of funds from a customer's
9 account to a seller or merchant upon electronic submission of
10 finalized sales transactions to the payment card network.

11 B. The amount of any state or local tax or fee that is
12 calculated as a percentage of an electronic payment transaction
13 amount and listed separately on the payment invoice or other demand
14 for payment, or the amount of any taxes imposed under Title 68 of
15 the Oklahoma Statutes, must be excluded from the amount on which a
16 service fee is charged for that electronic payment transaction.

17 C. It shall be unlawful to alter or manipulate the computation
18 and imposition of interchange fees by increasing the rate or amount
19 of fee applicable to or imposed upon that portion of an electronic
20 payment transaction not attributable to a state or local tax or fee
21 to circumvent the effect of subsection B of this section.

22 D. A payment card network shall either deduct the amount of any
23 tax or fee imposed as described in subsection B of this section from
24 the calculation of interchange fees specific to each form or type of

1 | electronic payment transaction at the time of settlement or shall
2 | rebate an amount of interchange fee proportionate to the amount
3 | attributable to the tax or fee. The deduction or rebate shall occur
4 | at the time of settlement when the merchant or seller is able to
5 | capture and transmit tax or fee amounts relevant to the sale at the
6 | time of sale as part of the transaction finalization. If the
7 | merchant or seller is unable to capture and transmit tax or fee
8 | amounts relevant to the sale at the time of sale, the payment card
9 | network shall accept proof of tax or fee amounts collected on sales
10 | subject to an interchange fee upon the submission of sales data by
11 | the seller or merchant and shall promptly credit the merchant's or
12 | seller's settlement account.

13 | E. A payment card network that violates this section is subject
14 | to a civil penalty of not more than One Thousand Dollars (\$1,000.00)
15 | per violation, payable to the plaintiff, and shall refund the
16 | surcharge to each merchant or seller.

17 | F. This section is effective November 1, 2021, and shall apply
18 | to electronic payment transactions processed on or after that date.

19 | SECTION 2. This act shall become effective November 1, 2021.

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