

HOUSE BILL 29

I2, C2, I3

(PRE-FILED)

5r1354
CF 5r2263

By: **Delegates T. Morgan and Crosby**

Requested: October 24, 2024

Introduced and read first time: January 8, 2025

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Electronic Payment Transactions – Interchange Fees – Calculation and Use of**
3 **Data**

4 FOR the purpose of requiring certain entities that process electronic payment transactions
5 to exclude, under certain circumstances, the amount of tax and gratuity included in
6 the electronic payment transaction from the amount on which an interchange fee is
7 charged; requiring certain credit and debit card issuers to credit a merchant who
8 provides certain documentation with the amount of the interchange fee charged on
9 the amount of tax and gratuity included in an electronic payment transaction;
10 prohibiting the use of electronic payment transaction data for certain purposes by
11 certain entities; making a violation of a certain provision of this Act an unfair,
12 abusive, or deceptive trade practice within the meaning of the Consumer Protection
13 Act; and generally relating to electronic payment transactions.

14 BY repealing and reenacting, with amendments,
15 Article – Commercial Law
16 Section 12–1402
17 Annotated Code of Maryland
18 (2013 Replacement Volume and 2024 Supplement)

19 BY adding to
20 Article – Commercial Law
21 Section 12–1405
22 Annotated Code of Maryland
23 (2013 Replacement Volume and 2024 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – Commercial Law
26 Section 13–301(14)(xliv)
27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2013 Replacement Volume and 2024 Supplement)
(As enacted by Chapters 262, 454, 455, 460, 461, 463, and 962 of the Acts of the
General Assembly of 2024)

BY repealing and reenacting, without amendments,
Article – Commercial Law
Section 13–301(14)(xlv)
Annotated Code of Maryland
(2013 Replacement Volume and 2024 Supplement)
(As enacted by Chapters 262, 454, 455, 460, 461, 463, and 962 of the Acts of the
General Assembly of 2024)

BY adding to
Article – Commercial Law
Section 13–301(14)(xlvi)
Annotated Code of Maryland
(2013 Replacement Volume and 2024 Supplement)
(As enacted by Chapters 262, 454, 455, 460, 461, 463, and 962 of the Acts of the
General Assembly of 2024)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Commercial Law

12–1402.

[This subtitle does] **SECTIONS 12–1403 AND 12–1404 OF THIS SUBTITLE DO** not
apply to a merchant processing agreement between a credit card processor and a business
entity:

(1) That may be terminated without assessment of fees, fines, penalties, or
liquidated damages; or

(2) If at the time of entry into the merchant processing agreement, the
business entity employs 50 or more employees or reasonably estimates that it will generate
more than \$2,000,000 in credit card or electronic commerce transactions each year.

12–1405.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(2) “ACQUIRER BANK” MEANS A MEMBER OF A PAYMENT CARD
NETWORK THAT CONTRACTS WITH A MERCHANT OR PROCESSOR FOR THE
SETTLEMENT OF ELECTRONIC PAYMENT TRANSACTIONS.

1 (3) “AUTHORIZATION” MEANS THE PROCESS THROUGH WHICH A
2 MERCHANT REQUESTS APPROVAL FOR AN ELECTRONIC PAYMENT TRANSACTION
3 FROM THE ISSUER.

4 (4) “CLEARANCE” MEANS THE PROCESS OF TRANSMITTING FINAL
5 TRANSACTION DATA FROM A MERCHANT TO AN ISSUER FOR POSTING TO THE
6 CARDHOLDER’S ACCOUNT AND THE CALCULATION OF FEES AND CHARGES,
7 INCLUDING INTERCHANGE FEES, THAT APPLY TO THE ISSUER AND THE MERCHANT.

8 (5) “CREDIT CARD” MEANS A CARD, PLATE, COUPON BOOK, OR ANY
9 OTHER CREDIT DEVICE EXISTING FOR THE PURPOSE OF OBTAINING MONEY,
10 PROPERTY, LABOR, OR SERVICES ON CREDIT.

11 (6) (I) “DEBIT CARD” MEANS A CARD OR OTHER PAYMENT CODE
12 OR DEVICE ISSUED OR APPROVED FOR USE THROUGH A PAYMENT CARD NETWORK
13 TO DEBIT AN ASSET ACCOUNT, REGARDLESS OF THE PURPOSE FOR WHICH THE
14 ACCOUNT IS ESTABLISHED OR WHETHER AUTHORIZATION IS BASED ON A
15 SIGNATURE, A PERSONAL IDENTIFICATION NUMBER, OR ANY OTHER MEANS.

16 (II) “DEBIT CARD” INCLUDES A GENERAL USE PREPAID CARD,
17 AS DEFINED IN 15 U.S.C. § 16931-1.

18 (III) “DEBIT CARD” DOES NOT INCLUDE A PAPER CHECK.

19 (7) “ELECTRONIC PAYMENT TRANSACTION” MEANS A TRANSACTION
20 IN WHICH A PERSON USES A DEBIT CARD, A CREDIT CARD, OR ANY OTHER PAYMENT
21 CODE OR DEVICE ISSUED OR APPROVED THROUGH A PAYMENT CARD NETWORK TO
22 DEBIT A DEPOSIT ACCOUNT OR USE A LINE OF CREDIT, REGARDLESS OF WHETHER
23 THE AUTHORIZATION IS BASED ON A SIGNATURE, A PERSONAL IDENTIFICATION
24 NUMBER, OR ANY OTHER MEANS.

25 (8) “GRATUITY” MEANS A VOLUNTARY MONETARY CONTRIBUTION TO
26 AN EMPLOYEE FROM A GUEST, PATRON, OR CUSTOMER IN CONNECTION WITH
27 SERVICES RENDERED.

28 (9) “INTERCHANGE FEE” MEANS A FEE ESTABLISHED, CHARGED, OR
29 RECEIVED BY A PAYMENT CARD NETWORK FOR THE PURPOSE OF COMPENSATING
30 THE ISSUER FOR ITS INVOLVEMENT IN AN ELECTRONIC PAYMENT TRANSACTION.

31 (10) “ISSUER” MEANS A PERSON ISSUING A DEBIT CARD OR CREDIT
32 CARD OR THE ISSUER’S AGENT.

1 (11) "MERCHANT" MEANS A PERSON THAT COLLECTS AND REMITS A
2 TAX.

3 (12) "PAYMENT CARD NETWORK" MEANS AN ENTITY THAT:

4 (I) DIRECTLY OR THROUGH LICENSED MEMBERS,
5 PROCESSORS, OR AGENTS PROVIDES THE PROPRIETARY SERVICES,
6 INFRASTRUCTURE, AND SOFTWARE TO ROUTE INFORMATION AND DATA FOR THE
7 PURPOSE OF CONDUCTING ELECTRONIC PAYMENT TRANSACTION AUTHORIZATION,
8 CLEARANCE, AND SETTLEMENT; AND

9 (II) A MERCHANT USES TO ACCEPT AS A FORM OF PAYMENT A
10 BRAND OF DEBIT CARD, CREDIT CARD, OR ANY OTHER DEVICE THAT MAY BE USED
11 TO CARRY OUT ELECTRONIC PAYMENT TRANSACTIONS.

12 (13) "PROCESSOR" MEANS AN ENTITY THAT FACILITATES, SERVICES,
13 PROCESSES, OR MANAGES THE DEBIT OR CREDIT AUTHORIZATION, BILLING,
14 TRANSFER, PAYMENT PROCEDURE, OR SETTLEMENT WITH RESPECT TO ANY
15 ELECTRONIC PAYMENT TRANSACTION.

16 (14) "SETTLEMENT" MEANS THE PROCESS OF TRANSMITTING SALES
17 INFORMATION TO THE ISSUING BANK FOR COLLECTION AND REIMBURSEMENT OF
18 FUNDS TO THE MERCHANT AND CALCULATING AND REPORTING THE NET
19 TRANSACTION AMOUNT TO THE ISSUER AND MERCHANT FOR AN ELECTRONIC
20 PAYMENT TRANSACTION THAT IS CLEARED.

21 (15) "TAX" MEANS THE SALES AND USE TAX IMPOSED UNDER TITLE 11
22 OF THE TAX – GENERAL ARTICLE.

23 (16) "TAX AND GRATUITY DOCUMENTATION" MEANS DOCUMENTATION
24 THAT IS SUFFICIENT TO ALLOW THE PAYMENT CARD NETWORK TO DETERMINE THE
25 AMOUNT OF TAX AND GRATUITY INCLUDED IN THE TOTAL AMOUNT OF THE
26 ELECTRONIC PAYMENT TRANSACTION.

27 (B) (1) A MERCHANT MAY REQUEST THAT AN ISSUER, A PAYMENT CARD
28 NETWORK, AN ACQUIRER BANK, OR A PROCESSOR EXCLUDE THE AMOUNT OF TAX OR
29 GRATUITY INCLUDED IN AN ELECTRONIC PAYMENT TRANSACTION FROM THE
30 AMOUNT ON WHICH AN INTERCHANGE FEE IS CHARGED BY TRANSMITTING THE TAX
31 AND GRATUITY DOCUMENTATION AS PART OF THE AUTHORIZATION OR SETTLEMENT
32 PROCESS FOR AN ELECTRONIC PAYMENT TRANSACTION.

33 (2) IF A MERCHANT TRANSMITS THE TAX AND GRATUITY
34 DOCUMENTATION AS PART OF THE AUTHORIZATION OR SETTLEMENT PROCESS FOR

1 THE ELECTRONIC PAYMENT TRANSACTION, AN ISSUER, A PAYMENT CARD NETWORK,
2 AN ACQUIRER BANK, OR A PROCESSOR SHALL EXCLUDE THE AMOUNT OF TAX AND
3 GRATUITY INCLUDED IN THE ELECTRONIC PAYMENT TRANSACTION FROM THE
4 AMOUNT ON WHICH AN INTERCHANGE FEE IS CHARGED.

5 (3) (I) A MERCHANT THAT DOES NOT TRANSMIT THE TAX AND
6 GRATUITY DOCUMENTATION IN ACCORDANCE WITH PARAGRAPH (2) OF THIS
7 SUBSECTION MAY SUBMIT TAX AND GRATUITY DOCUMENTATION FOR THE
8 ELECTRONIC PAYMENT TRANSACTION TO THE ACQUIRER BANK OR ITS DESIGNEE
9 WITHIN 180 DAYS AFTER THE DATE OF THE ELECTRONIC PAYMENT TRANSACTION.

10 (II) WITHIN 30 DAYS AFTER A MERCHANT SUBMITS THE TAX
11 AND GRATUITY DOCUMENTATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH,
12 THE ISSUER SHALL CREDIT TO THE MERCHANT THE AMOUNT OF INTERCHANGE FEES
13 CHARGED ON THE AMOUNT OF TAX AND GRATUITY INCLUDED IN THE ELECTRONIC
14 PAYMENT TRANSACTION.

15 (4) THIS SECTION DOES NOT CREATE LIABILITY FOR A PAYMENT
16 CARD NETWORK REGARDING THE ACCURACY OF THE TAX AND GRATUITY
17 DOCUMENTATION REPORTED BY THE MERCHANT.

18 (5) (I) AN ISSUER, A PAYMENT CARD NETWORK, AN ACQUIRER
19 BANK, OR A PROCESSOR THAT DOES NOT EXCLUDE THE AMOUNT OF TAX AND
20 GRATUITY INCLUDED IN AN ELECTRONIC PAYMENT TRANSACTION AS REQUIRED
21 UNDER PARAGRAPH (2) OF THIS SUBSECTION IS SUBJECT TO A CIVIL PENALTY OF
22 \$1,000 FOR EACH TRANSACTION.

23 (II) AN ISSUER THAT DOES NOT CREDIT THE MERCHANT THE
24 AMOUNT OF INTERCHANGE FEES CHARGED ON THE AMOUNT OF TAX AND GRATUITY
25 INCLUDED IN THE ELECTRONIC PAYMENT TRANSACTION AS REQUIRED UNDER
26 PARAGRAPH (3) OF THIS SUBSECTION IS SUBJECT TO A CIVIL PENALTY OF \$1,000
27 FOR EACH TRANSACTION.

28 (C) AN ISSUER, A PAYMENT CARD NETWORK, AN ACQUIRER BANK, OR A
29 PROCESSOR MAY NOT ALTER OR MANIPULATE THE COMPUTATION AND IMPOSITION
30 OF INTERCHANGE FEES BY INCREASING THE RATE OR AMOUNT OF THE FEES
31 APPLICABLE TO OR IMPOSED ON THE PORTION OF A CREDIT OR DEBIT CARD
32 TRANSACTION THAT IS NOT ATTRIBUTABLE TO TAXES OR GRATUITIES FOR A
33 MERCHANT THAT MAKES A REQUEST UNDER SUBSECTION (B) OF THIS SECTION.

34 (D) (1) AN ENTITY OTHER THAN A MERCHANT MAY NOT DISTRIBUTE,
35 EXCHANGE, TRANSFER, DISSEMINATE, OR USE ELECTRONIC PAYMENT
36 TRANSACTION DATA EXCEPT:

- 1 (I) TO FACILITATE OR PROCESS THE ELECTRONIC PAYMENT
2 TRANSACTION;
- 3 (II) TO MONITOR FOR, DETECT, OR PREVENT FRAUD;
- 4 (III) TO SUPPORT A LOYALTY, REWARDS, OR PROMOTIONAL
5 OFFERING;
- 6 (IV) TO TAILOR PRODUCTS AND SERVICES TO SERVE CUSTOMER
7 NEEDS; OR
- 8 (V) AS OTHERWISE REQUIRED BY LAW.

9 (2) A VIOLATION OF THIS SUBSECTION IS AN UNFAIR, ABUSIVE, OR
10 DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE
11 AND IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN
12 TITLE 13 OF THIS ARTICLE.

13 13-301.

14 Unfair, abusive, or deceptive trade practices include any:

- 15 (14) Violation of a provision of:
- 16 (xlv) Title 14, Subtitle 49 of this article; [or]
- 17 (xlv) Section 12-6C-09.1 of the Health Occupations Article; or
- 18 (XLVI) SECTION 12-1405 OF THIS ARTICLE; OR

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2025.