HB 29 testimony.pdf
Uploaded by: Kirk McCauley
Position: FAV

WMDA/CAR Service Station
and Automotive Repair Association

Chair: C.T. Wilson, Vice Chair Brian Crosby, and Members of Economic Matters Committee

RE: HB 29 Electronic Payment Transactions – Interchange Fees – Calculation and Use of Data

Position: Favorable

My name is Kirk McCauley, my employer is WMDA/CAR, we represent service stations convenience stores and repair facilities across the state as a non- profit trade group.

Merchants that I represent are mostly small retailers but are in the same boat as all retailers in Maryland. They provide products to consumers, collect payment and add a tax if appropriate, that sent to the state.

The overwhelming way these products are paid for are electronic, credit card, debit card or a payment app. All of these have an interchange fee that retailer pays to card or app provider for accepting payment in electronic form. Retailers pay interchange fee on those taxes collected. **100% of tax collected is going to Maryland**, **and retailer pays interchange fees out of pocket.**

This bill is about correcting something that's not fair and doing so costs Maryland nothing.

Please give HB 29 a favorable report.

Any questions can be addressed to Kirk McCauley, 301-775-0221 or kmccauley@wmda.net

HB29_RestaurantAssoc_Thompson_FAV.pdf
Uploaded by: Melvin Thompson
Position: FAV

Restaurant Association of Maryland

House Bill 29

Electronic Payment Transactions - Interchange Fees - Calculation and Use of Data

January 21, 2025

Position: **SUPPORT**

Mr. Chairman and Members of the Economic Matters Committee:

The *Restaurant Association of Maryland* strongly supports House Bill 29 with the sponsor's forthcoming amendments, and we appreciate Delegate Morgan and Vice Chair Crosby introducing this legislation to help our businesses avoid the costly burden of paying interchange fees (a.k.a. payment card swipe fees) on the sales tax and gratuity portions of customer electronic payment transactions.

When customers pay for products and services by credit or debit card, businesses pay swipe fees on the total amount charged for each payment transaction. These swipe fees usually range between 2% to 4% of the transaction total. Swipe fees include: an *interchange fee* which is set by the card network/credit card company (Visa, Mastercard, American Express, Discover) and is paid to the bank that issued the card to the customer; an *acquirer/processor fee*; and a *network fee*. The interchange fee is the largest portion of swipe fees, and the fastest growing. Credit card interchange fees in the United States have more than doubled over the past decade. And the United States has the highest interchange fees in the industrialized world.

Swipe fees now rank among the highest operating costs for many restaurants – often right behind labor and food costs. Refusing to accept credit cards is no longer a viable option for businesses.
To help recoup these growing costs, businesses are forced to figure these expenses into the price of products/services sold, which contributes to inflation that ultimately further benefits the card payments ecosystem. Some businesses have resorted to imposing surcharges on credit card sales.

Given these out-of-control costs, it is particularly unfair that businesses must pay swipe fees on the sales tax and gratuity portions of payment transactions that get passed on (either to the State or to employees). Moreover, collecting/remitting sales tax is required by State law. According to estimates provided by CMS Payments Intelligence (CMSPI), $157 million was paid in interchange fees on sales tax collected in Maryland in 2023. Our businesses should not have to pay interchange fees for the role they play as the State's tax collector.

House Bill 29 provides two options for merchants to avoid interchange fees on sales tax and gratuities:

(more)

1. It would require an issuer (banks that issue payment cards to consumers), a payment card network (e.g., Visa, Mastercard, American Express, Discover), acquirer bank, or processor to exclude the sales tax and gratuity portions of an electronic payment transaction from the amount on which an interchange fee is charged, if the merchant transmits the tax and gratuity documentation as part of the electronic payment transaction authorization or settlement process; *or*

2. If a merchant does not transmit the tax and gratuity documentation as part of the transaction authorization or settlement process, the merchant may later submit (within 180 days after the date of the transaction) the tax and gratuity documentation for the transaction to the acquirer bank (or its designee); *and*

   Within 30 days after a merchant submits the tax and gratuity documentation, the issuer shall credit to the merchant the amount of interchange fees charged on the amount of tax and gratuity included in the electronic payment transaction.

This would save the average Maryland full-service restaurant an estimated $2,500 in sales tax interchange fees and $6,200 in gratuity interchange fees annually. Limited-service restaurants would save about $1,700 in sales tax interchange fees annually. These savings would allow restaurant owners to invest more in growing their businesses, increasing their payrolls, and contributing more to the local communities they serve.

It is important to note that Maryland law provides a sales tax vendor timely filing credit. Sales tax vendors (restaurants, retailers and other businesses that collect/remit sales tax) who file their returns on time receive a filing credit of 1.2% on the first $6,000 collected and 0.9% on the amount of sales tax collected above $6,000 (up to a maximum of $500 for each sales tax return). Sales tax vendors may keep this portion of the collected tax. The purpose of the credit is to compensate businesses for costs associated with collecting/remitting sales tax. While appreciated to cover some of the associated costs, this credit is only a fraction of the cost of swipe fees businesses pay on sales tax collection.

The average pre-tax profit margin for large money center banks is about 27%. Average profits for Visa and Mastercard are 50% or more. The average restaurant pre-tax profit margin is just 3% to 5%. Banks and credit card companies with significantly larger profit margins are benefiting from interchange fees on the sales tax collection mandate at the expense of Maryland businesses. And they also benefit from interchange fees on gratuities that are passed on to employees. This is unjustified.

We respectfully request a favorable report for House Bill 29. Thank you for your consideration.

Sincerely,

Melvin R. Thompson

Melvin R. Thompson
Senior Vice President
Government Affairs and Public Policy

HB29_MAPDA_fav (2025).pdf

Uploaded by: Mike O'Halloran

Position: FAV

Mid-Atlantic Petroleum Distributors Association
P.O. Box 711 ★ Annapolis, MD 21404
410-693-2226 ★ www.mapda.com

TO: House Economic Matters Committee

FROM: Mid-Atlantic Petroleum Distributors Association

DATE: January 21, 2025

RE: **HOUSE BILL 29** – Electronic Payment Transactions – Interchange Fees – Calculation and Use of Data

On behalf of Maryland's convenience store marketers and energy distributors, MAPDA urges the committee to issue a favorable report on HB29.

This legislation would allow a merchant to request a bank or credit card processor to exempt the amount of sales tax in an electronic payment transaction from the amount on which an interchange fee is charged.

An "interchange fee" – commonly known as a swipe fee – is the fee charged by a bank of credit card processor for its involvement in the payment process.

Convenience stores process approximately 16 million transactions a day, most of which are on payment cards. The swipe fees charged to retailers every time a card is used in their stores is the 2nd highest operating cost for the industry.

Passing HB29 is about fairness. When a customer uses a credit card in a store, the bank that issued the card collects a swipe fee from the retailer off the total amount, including the sales tax. However, the tax portions are not funds that the retailer pockets but fully remits to state or local government. This means retailers must go into their own pockets to make up for the taxes that the credit card industry takes away from them during the transaction process.

Thank you for your consideration. We urge the Economic Matters Committee to issue a **FAVORABLE COMMMITTEE REPORT on HB29**.

HB29_NFIB_fav (2025).pdf
Uploaded by: Mike O'Halloran
Position: FAV

NFIB-Maryland – 60 West St., Suite 101 – Annapolis, MD 21401 – www.NFIB.com/Maryland

TO: House Economic Matters Committee

FROM: NFIB – Maryland

DATE: January 21, 2025

RE: **SUPPORT HOUSE BILL 29** – Electronic Payment Transactions – Interchange Fees-Calculation and Use of Data

Founded in 1943, NFIB is the voice of small business, advocating on behalf of America's small and independent business owners, both in Washington, D.C., and in all 50 state capitals. With more than 250,000 members nationwide, and nearly 4,000 here in Maryland, we work to protect and promote the ability of our members to grow and operate their business.

On behalf of Maryland's small businesses, NFIB supports House Bill 29 – legislation that would allow a merchant to request a bank or credit card processor to exempt the amount of sales tax in an electronic payment transaction from the amount on which an interchange fee is charged.

An "interchange fee" – commonly known as a swipe fee – is the fee charged by a bank or credit card processor for its involvement in the payment process.

Small business owners operate on thin profit margins, which have been increasingly cut into in recent years as credit card "swipe fees" have increased. Small businesses do not have the market power to negotiate with large credit card companies on "swipe fees", so legislation like HB29, which offers a bit of relief, is welcome news.

Removing the sales tax from "swipe fees" also ensures customers are not indirectly paying extra for using their credit cards. It is a win-win for small businesses and their customers.

For these reasons, **NFIB supports HB29** and requests a favorable committee report.

HB29_MRA_FAV.pdf
Uploaded by: Sarah Price
Position: FAV

HB29 Electronic Payment Transactions - Interchange Fees - Calculation and Use of Data
Economic Matters Committee
January 21, 2025

Position: Favorable

Facts and Questions

Q1: Fraud – Don't credit card companies need swipe fees on taxes to cover fraudulent charges?

NO. Retailers pay for significant amounts of credit card fraud. They don't receive "Guaranteed Payment."

- Merchants "pre-pay" to protect against fraud by paying swipe fees, which includes at least $0.01 to cover the risk of fraud. In addition, merchants pay networks to cover mandated fraud solutions. And, card companies require merchants to invest in costly equipment to prevent card fraud (i.e., EMV chip readers).
- But when fraudulent purchases happen, the merchants lose the product, which was purchased fraudulently, must still remit tax on the stolen goods to the State, <u>and</u> generally has to pay "chargebacks" to the bank card issuer (as well as fees to the networks) to cover the cost of the fraud.
    - Swipe fees on purchases far exceed card companies' fraud expenses.
- The idea that retailers should pay limitless fees to the big banks because payment is "guaranteed" makes no sense when most fraud costs simply get charged back to retailers.

Q2: Technology – Does existing equipment and technology need to be replaced to ensure HB29 can go into effect?

NO. HB29 would <u>not</u> require any new systems – for banks or retailers.

- While the processors and banks keep saying they would need to build new systems to recognize tax amounts at the point of sale, that isn't true.
    - Also, similar legislation was passed in Illinois (see Q12 below).
- Credit card companies charge swipe fees (interchange) today – not processors or banks. Today, merchants pass 3 data fields – (1) purchase amount, (2) tax amount, and (3) total – to processors, which send that data to the card networks, which determine swipe fee rates.
    - Banks receive settlement of funds, including swipe fees from the network or processor.
- It is possible to stop charging swipe fees on tax amounts at the point of sale much more easily than the financial services industry suggests. And if they can't, HB29 provides for swipe fees on sales tax to be refunded to the retailer after the fact.

- To support tax-exempt business-to-business sales, banks already require that merchants collect sales tax data.[1] In fact, the "Level 2" data transmitted with each transaction already has sales tax separated from the purchase amount. Visa and Mastercard mandate system updates twice per year, so any changes required can be implemented during those updates.
- Not only do the card companies collect this and other Level 2 data, they also try to sell it back to merchants (Visa calls this service "IntelliLink").[2] This service includes "Local tax support including VAT and GST."
- In the event that a retailer is unable to separate sales tax information at the point of sale, HB29 allows the retailer to send the tax information to the card company after the sale and allows the card network to refund the swipe fees to the retailer after the fact. This means no investments in new systems are necessary. Retailers can just send the tax information and get a rebate later. In short, sending card companies information will trigger the same settlement process that happens today (merchant to bank) and its reverse (bank to merchant).

Q3: Won't consumers lose convenience because they will need to "swipe twice" in order to pay for a product if swipe fees can't be collected on taxes?

NO. Consumers will not need to swipe their cards two times in order to make a purchase.

- There is no need for two transactions – and claiming a card will need to be swiped twice just doesn't make sense.
- Do customers pay in two transactions when they leave a tip at restaurants? No, they don't. The card is only swiped one time.
- When swipe fees are collected on State-mandated taxes, what consumers actually lose is money because they have to pay higher retail prices to cover the billions of dollars in swipe fees that merchants pay each year.

Q4: When a fraudulent transaction occurs and a merchant gets "charged back" (and has lost the goods), does the State still get to keep the sales tax that the merchant has remitted to them?

YES.

Q5: Don't financial institutions need to recover swipe fees on the product and the taxes paid on that product because they are financing the total amount of the purchase plus tax? Isn't the swipe fee a form of cost recovery for the "guarantee" they provide for the total purchase?

No. Financial institutions are well compensated for the service they provide to purchase a product with a payment card. Recovering swipe fees on the taxes is just additional windfall profit.

---

[1] For example, sales tax data is on track 2 of credit card transaction data (sometimes referred to as Level 2 data). Visa specifies this in their own document written for petroleum retailers at page 13, footnote 3: https://usa.visa.com/dam/VCOM/regional/na/us/support-legal/documents/visa-petroleum-best-practices.pdf.

[2] https://usa.visa.com/run-your-business/commercial-solutions/solutions/intellilink.html

- A PIN debit transaction is "real time" with zero risk to banks, despite the swipe fee associated with a PIN debit transaction, and the bank is guaranteed payment.
- A signature debit transaction is guaranteed payment since it is drawn from actual funds in an account.
- A credit payment is payment extended on credit. Banks evaluate a consumer's risk before extending them a credit card, and they protect against that risk by charging consumers high rates of interest. In the U.S., the average credit card interest rate is 24.08%.[3]
- Finally, in addition to the interchange fee, merchants pay a fee for "fraud" that covers the risk of nonpayment.

Q6: Won't Visa/Mastercard just raise their rates to recoup lost profits if HB29 passes?

That is a possibility. But whether or not HB29 passes, the networks routinely raise their rates.

- In fact, the last time the networks raised their rates was Spring 2022, during record inflation. They did this despite a bipartisan group of federal lawmakers writing to them to ask them not to so.[4]
- In early 2022, Visa's CEO and CFO stated on earnings calls that, "historically, inflation has been positive for us."[5]

Q7: If HB29 passes, will banks/processors need to have specific transaction level data to know what tax to charge? Won't this be a privacy violation because retailers will need to tell banks that a customer is purchasing something like eggs, milk, or gasoline?

NO.

- Processors have no involvement in identifying tax nor collecting tax today. As stated above, all they have to do is pass an existing data field to networks, which calculate interchange.

---

[3] Michelle Black and Robin Saks Frankel, *What Is The Average Credit Card Interest Rate This Week? February 21, 2023,* https://www.forbes.com/advisor/credit-cards/average-credit-card-interest-rate/.

[4] *See* https://www.durbin.senate.gov/newsroom/press-releases/durbin-marshall-welch-van-duyne-urge-visa-and-mastercard-to-call-off-planned-swipe-fee-increases-on-vulnerable-american-families-and-businesses.

[5] Q2 April 26, "And then, the last thing I'd say, net-net, historically, inflation has been positive for us." Al Kelly – CEO; https://investor.visa.com/events-calendar/Event-Details/2022/Q2-2022-Visa-Inc-Earnings-Conference-Call/default.aspx; Q1 Jan 25th, "So, net-net, we're a beneficiary of inflation" Vasant Prabhu - Vice Chairman and Chief Financial Officer, https://investor.visa.com/events-calendar/Event-Details/2022/Q1-2022-Visa-Inc-Earnings-Conference-Call/default.aspx

Q8: Vendor's Compensation – Don't retailers get fully reimbursed by the State of Maryland for collecting taxes?

> **NO. Merchants only receive a fraction of their tax collection costs, especially compared to the cost of swipe fees on sales taxes.**

- Maryland compensates retailers for only 1.2% of the first $6,000 in tax collected, and 0.9% of any amount collected over $6,000. For example, if a retailer collected $10,000 in taxes, the retailer's compensation would be only $108.
- The amount the State provides to retailers is intended to cover their administrative and bookkeeping costs to collect and remit tax. And it doesn't begin to compare with the large sums of swipe fees charged on taxes. At the average rate, swipe fees amount to $222 on $10,000 in sales tax collected – more than twice the amount the retailer currently receives in vendor compensation.
- Additionally, Maryland law allows this compensation as a discount for businesses submitting their sales and use tax return before the due date, and caps the total compensation amount at $500 per tax return.
- Collectively, Maryland merchants paid an estimated $156,911,374 in swipe fees on state taxes in 2023 – most of that money leaving the state.
- Financial institutions will suggest that the state should increase vendor's compensation – because that would allow them to continue profiting off swipe fees on taxes. This "compromise" would counteract the revenue-neutral status of HB29.
- Asking Maryland taxpayers to pick up the bill so the card industry can continue to profit off retailers' mandated obligation to collect taxes is not the answer. Ending swipe fees on taxes is the answer, and one that comes at no cost to the state or its taxpayers.

<u>Understanding Swipe Fees</u>

Q9: How much of the fee on the sales or excises tax actually trickles down to a local bank or credit union?

> 100% of interchange goes to the bank or credit union.

Q10: Won't this legislation ultimately hurt small businesses?

> **No. This legislation will reduce the costs that small businesses foot to collect taxes for the state.**

Q11: Why do I see gasoline offered for a cash discount?

- Merchants fully understand their cost of goods sold and offer prices to consumers based on these costs.
  - Fuel retailers know what it costs them to accept plastic payments (hint: it is expensive). Thus, many retailers will offer a cash discount, which accounts for the lower cost of

processing a cash transaction compared with a payment card, in order to incentivize consumers to pay with the less expensive payment option (i.e., cash).
    - The cash price is a discount (in other words, the more expensive credit price is not a surcharge.)

<u>Other States</u>

Q12: Do any other states prohibit the collection of swipe fees on state mandated taxes?

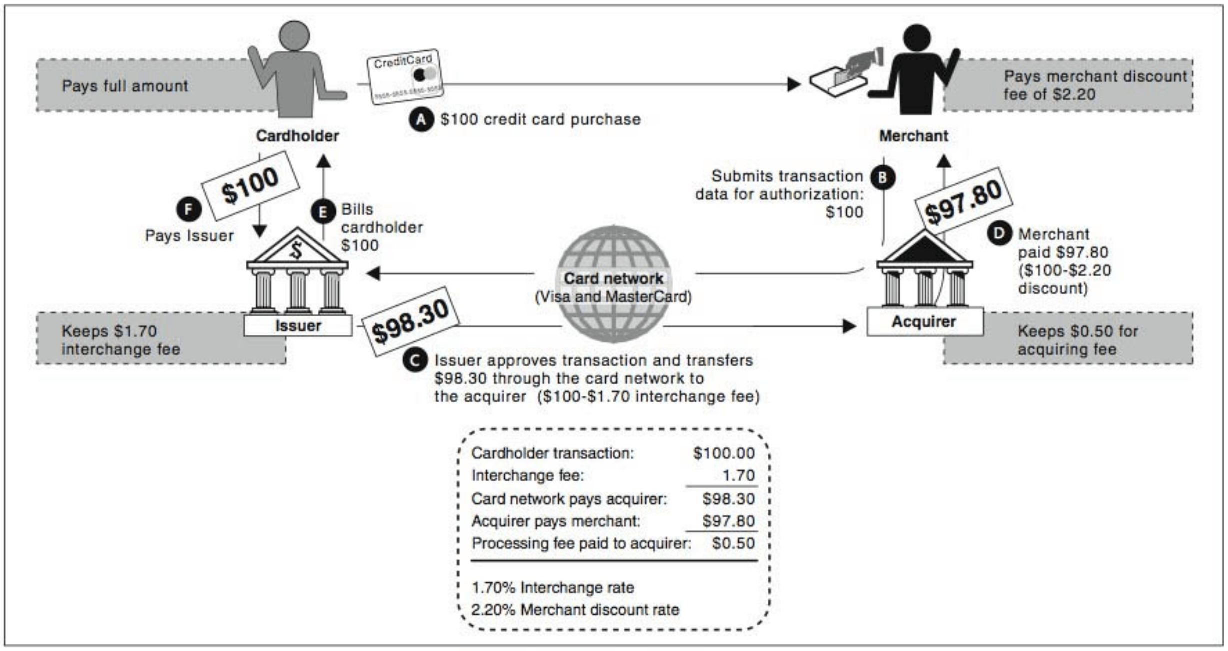
> **YES. In May 2024, Illinois passed the Interchange Fee Prohibition Act that prohibits swipe fees on sales taxes, state excise taxes and gratuities/tips. The Act will go into effect in July 2025 and will, at that time, apply to Visa, Mastercard, and non-national banks.[6]**

<u>Final Thoughts</u>

- Credit card companies argue the "sky is falling" every time someone wants to make common-sense changes to the world of swipe fees.
- They argued that debit cards would go away when the U.S. Congress decided to regulate them. That was more than 12 years ago – do you still have a debit card?
- They argued credit cards would enter a "death spiral" when the Reserve Bank of Australia and the European Competition Commission investigated them and limited swipe fees. Nonetheless, credit card usage is up in both locations and credit card rewards are still plentiful.
- When simple facts are against them, credit card companies have nothing left to sell but fear.

[6] *See* Section 150-10 of the Illinois revenue billed, https://legiscan.com/IL/text/HB4951/id/3007342, Signed on June 7, 2024 by Gov. Pritzker; *see also* https://www.supermarketnews.com/news/illinois-swipe-fees-will-no-longer-apply-taxes-tips/

Figure 2: Transfer of Fees in a Credit Card Transaction



Sources: GAO (analysis); Art Explosion (images).

HB29_MRA_FAV.pdf

Uploaded by: Sarah Price

Position: FAV

HB29 Electronic Payment Transactions - Interchange Fees - Calculation and Use of Data
Economic Matters Committee
January 21, 2025

Position: Favorable

Facts and Questions

Q1: Fraud – Don't credit card companies need swipe fees on taxes to cover fraudulent charges?

NO. Retailers pay for significant amounts of credit card fraud. They don't receive "Guaranteed Payment."

- Merchants "pre-pay" to protect against fraud by paying swipe fees, which includes at least $0.01 to cover the risk of fraud. In addition, merchants pay networks to cover mandated fraud solutions. And, card companies require merchants to invest in costly equipment to prevent card fraud (i.e., EMV chip readers).
- But when fraudulent purchases happen, the merchants lose the product, which was purchased fraudulently, must still remit tax on the stolen goods to the State, and generally has to pay "chargebacks" to the bank card issuer (as well as fees to the networks) to cover the cost of the fraud.
    - Swipe fees on purchases far exceed card companies' fraud expenses.
- The idea that retailers should pay limitless fees to the big banks because payment is "guaranteed" makes no sense when most fraud costs simply get charged back to retailers.

Q2: Technology – Does existing equipment and technology need to be replaced to ensure HB29 can go into effect?

NO. HB29 would not require any new systems – for banks or retailers.

- While the processors and banks keep saying they would need to build new systems to recognize tax amounts at the point of sale, that isn't true.
    - Also, similar legislation was passed in Illinois (see Q12 below).
- Credit card companies charge swipe fees (interchange) today – not processors or banks. Today, merchants pass 3 data fields – (1) purchase amount, (2) tax amount, and (3) total – to processors, which send that data to the card networks, which determine swipe fee rates.
    - Banks receive settlement of funds, including swipe fees from the network or processor.
- It is possible to stop charging swipe fees on tax amounts at the point of sale much more easily than the financial services industry suggests. And if they can't, HB29 provides for swipe fees on sales tax to be refunded to the retailer after the fact.

- To support tax-exempt business-to-business sales, banks already require that merchants collect sales tax data.[1] In fact, the "Level 2" data transmitted with each transaction already has sales tax separated from the purchase amount. Visa and Mastercard mandate system updates twice per year, so any changes required can be implemented during those updates.
- Not only do the card companies collect this and other Level 2 data, they also try to sell it back to merchants (Visa calls this service "IntelliLink").[2] This service includes "Local tax support including VAT and GST."
- In the event that a retailer is unable to separate sales tax information at the point of sale, HB29 allows the retailer to send the tax information to the card company after the sale and allows the card network to refund the swipe fees to the retailer after the fact. This means no investments in new systems are necessary. Retailers can just send the tax information and get a rebate later. In short, sending card companies information will trigger the same settlement process that happens today (merchant to bank) and its reverse (bank to merchant).

Q3: Won't consumers lose convenience because they will need to "swipe twice" in order to pay for a product if swipe fees can't be collected on taxes?

NO. Consumers will not need to swipe their cards two times in order to make a purchase.

- There is no need for two transactions – and claiming a card will need to be swiped twice just doesn't make sense.
- Do customers pay in two transactions when they leave a tip at restaurants? No, they don't. The card is only swiped one time.
- When swipe fees are collected on State-mandated taxes, what consumers actually lose is money because they have to pay higher retail prices to cover the billions of dollars in swipe fees that merchants pay each year.

Q4: When a fraudulent transaction occurs and a merchant gets "charged back" (and has lost the goods), does the State still get to keep the sales tax that the merchant has remitted to them?

YES.

Q5: Don't financial institutions need to recover swipe fees on the product and the taxes paid on that product because they are financing the total amount of the purchase plus tax? Isn't the swipe fee a form of cost recovery for the "guarantee" they provide for the total purchase?

No. Financial institutions are well compensated for the service they provide to purchase a product with a payment card. Recovering swipe fees on the taxes is just additional windfall profit.

---

[1] For example, sales tax data is on track 2 of credit card transaction data (sometimes referred to as Level 2 data). Visa specifies this in their own document written for petroleum retailers at page 13, footnote 3: https://usa.visa.com/dam/VCOM/regional/na/us/support-legal/documents/visa-petroleum-best-practices.pdf.

[2] https://usa.visa.com/run-your-business/commercial-solutions/solutions/intellilink.html

- A PIN debit transaction is "real time" with zero risk to banks, despite the swipe fee associated with a PIN debit transaction, and the bank is guaranteed payment.
- A signature debit transaction is guaranteed payment since it is drawn from actual funds in an account.
- A credit payment is payment extended on credit. Banks evaluate a consumer's risk before extending them a credit card, and they protect against that risk by charging consumers high rates of interest. In the U.S., the average credit card interest rate is 24.08%.[3]
- Finally, in addition to the interchange fee, merchants pay a fee for "fraud" that covers the risk of nonpayment.

Q6: Won't Visa/Mastercard just raise their rates to recoup lost profits if HB29 passes?

That is a possibility. But whether or not HB29 passes, the networks routinely raise their rates.

- In fact, the last time the networks raised their rates was Spring 2022, during record inflation. They did this despite a bipartisan group of federal lawmakers writing to them to ask them not to so.[4]
- In early 2022, Visa's CEO and CFO stated on earnings calls that, "historically, inflation has been positive for us."[5]

Q7: If HB29 passes, will banks/processors need to have specific transaction level data to know what tax to charge? Won't this be a privacy violation because retailers will need to tell banks that a customer is purchasing something like eggs, milk, or gasoline?

NO.

- Processors have no involvement in identifying tax nor collecting tax today. As stated above, all they have to do is pass an existing data field to networks, which calculate interchange.

[3] Michelle Black and Robin Saks Frankel, *What Is The Average Credit Card Interest Rate This Week? February 21, 2023,* https://www.forbes.com/advisor/credit-cards/average-credit-card-interest-rate/.

[4] *See* https://www.durbin.senate.gov/newsroom/press-releases/durbin-marshall-welch-van-duyne-urge-visa-and-mastercard-to-call-off-planned-swipe-fee-increases-on-vulnerable-american-families-and-businesses.

[5] Q2 April 26, "And then, the last thing I'd say, net-net, historically, inflation has been positive for us." Al Kelly – CEO; https://investor.visa.com/events-calendar/Event-Details/2022/Q2-2022-Visa-Inc-Earnings-Conference-Call/default.aspx; Q1 Jan 25th, "So, net-net, we're a beneficiary of inflation" Vasant Prabhu - Vice Chairman and Chief Financial Officer, https://investor.visa.com/events-calendar/Event-Details/2022/Q1-2022-Visa-Inc-Earnings-Conference-Call/default.aspx

171 CONDUIT STREET, ANNAPOLIS, MD 21401 | 410-269-1440

WWW.MDRA.ORG

Q8: Vendor's Compensation – Don't retailers get fully reimbursed by the State of Maryland for collecting taxes?

> **NO. Merchants only receive a fraction of their tax collection costs, especially compared to the cost of swipe fees on sales taxes.**

- Maryland compensates retailers for only 1.2% of the first $6,000 in tax collected, and 0.9% of any amount collected over $6,000. For example, if a retailer collected $10,000 in taxes, the retailer's compensation would be only $108.
- The amount the State provides to retailers is intended to cover their administrative and bookkeeping costs to collect and remit tax. And it doesn't begin to compare with the large sums of swipe fees charged on taxes. At the average rate, swipe fees amount to $222 on $10,000 in sales tax collected – more than twice the amount the retailer currently receives in vendor compensation.
- Collectively, Maryland merchants paid an estimated $156,911,374 in swipe fees on state taxes in 2023 – most of that money leaving the state.
- Financial institutions will suggest that the state should increase vendor's compensation – because that would allow them to continue profiting off swipe fees on taxes. This "compromise" would counteract the revenue-neutral status of HB29.
- Asking Maryland taxpayers to pick up the bill so the card industry can continue to profit off retailers' mandated obligation to collect taxes is not the answer. Ending swipe fees on taxes is the answer, and one that comes at no cost to the state or its taxpayers.

<u>Understanding Swipe Fees</u>

Q9: How much of the fee on the sales or excises tax actually trickles down to a local bank or credit union?

> 100% of interchange goes to the bank or credit union.

Q10: Won't this legislation ultimately hurt small businesses?

> **No. This legislation will reduce the costs that small businesses foot to collect taxes for the state.**

Q11: Why do I see gasoline offered for a cash discount?

- Merchants fully understand their cost of goods sold and offer prices to consumers based on these costs.
  - Fuel retailers know what it costs them to accept plastic payments (hint: it is expensive). Thus, many retailers will offer a cash discount, which accounts for the lower cost of processing a cash transaction compared with a payment card, in order to incentivize consumers to pay with the less expensive payment option (i.e., cash).
  - The cash price is a discount (in other words, the more expensive credit price is not a surcharge.)

Other States

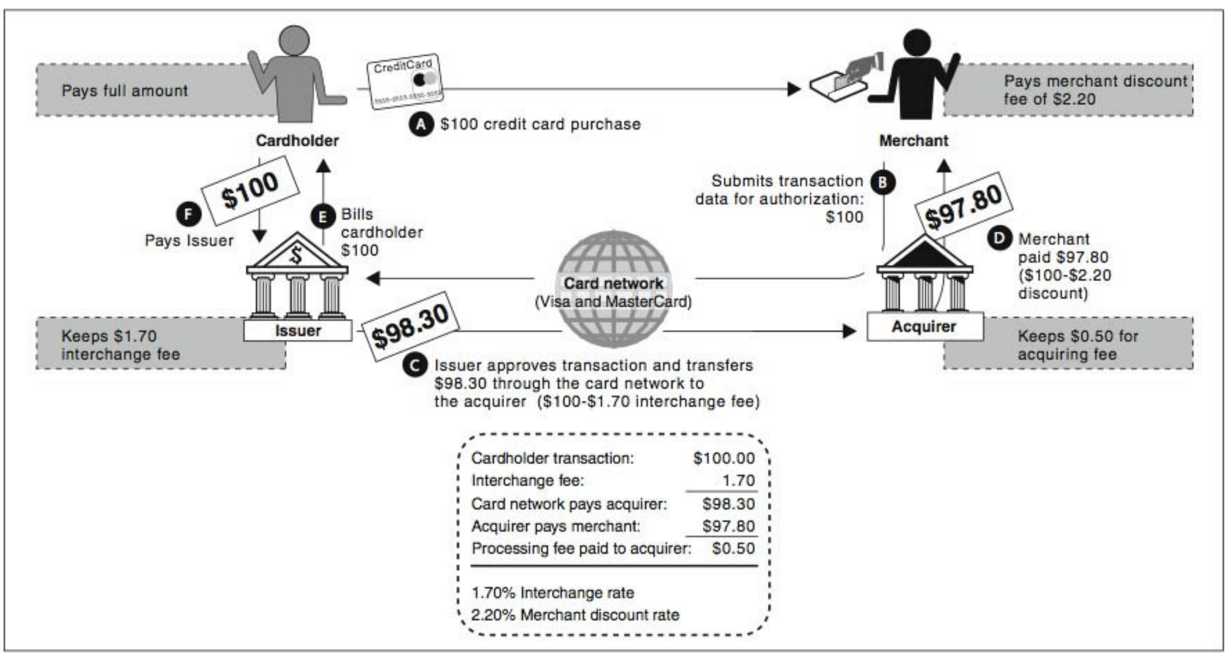
Q12: Do any other states prohibit the collection of swipe fees on state mandated taxes?

> **YES. In May 2024, Illinois passed the Interchange Fee Prohibition Act that prohibits swipe fees on sales taxes, state excise taxes and gratuities/tips. The Act will go into effect in July 2025 and will, at that time, apply to Visa, Mastercard, and non-national banks.[6]**

Final Thoughts

- Credit card companies argue the "sky is falling" every time someone wants to make common-sense changes to the world of swipe fees.
- They argued that debit cards would go away when the U.S. Congress decided to regulate them. That was more than 12 years ago – do you still have a debit card?
- They argued credit cards would enter a "death spiral" when the Reserve Bank of Australia and the European Competition Commission investigated them and limited swipe fees. Nonetheless, credit card usage is up in both locations and credit card rewards are still plentiful.
- When simple facts are against them, credit card companies have nothing left to sell but fear.

Figure 2: Transfer of Fees in a Credit Card Transaction



Sources: GAO (analysis); Art Explosion (images).

---

6 *See* Section 150-10 of the Illinois revenue billed, https://legiscan.com/IL/text/HB4951/id/3007342, Signed on June 7, 2024 by Gov. Pritzker; *see also* https://www.supermarketnews.com/news/illinois-swipe-fees-will-no-longer-apply-taxes-tips/

HB29_WelcomeHome_FAV.pdf
Uploaded by: Sarah Price
Position: FAV

Letter of Support: HB29 Electronic Payment Transactions - Interchange Fees - Calculation and Use of Data

January 15, 2025

Chester River Wine & Cheese Company and Welcome Home Markets
117 S. Cross Street
Chestertown, MD 21620

To Whom It May Concern:

We are small business owners operating four locations within Maryland – Chester River Wine & Cheese Co. in Chestertown and Welcome Home in Annapolis, Chestertown, and Easton.

Last year we collected and remitted a combined $69,000 in sales taxes for the State of Maryland. In doing so, we were assessed roughly $1,800 in processing fees by our two point of sale providers, Shopify and Lightspeed. The collection, tracking, administration, and filing / remittance of sales tax does divert effort and attention away from the management of our operations. It is unnecessary and unfair for us to be assessed additional fees while supporting sales tax collection efforts for the State.

Across the country one can see small businesses are struggling to make ends meet, let alone generate a sufficient profit. Case in point, many restaurants are now passing their processing fees on to patrons. While the financial impacts may seem relatively small to the casual observer, every dollar counts. Recuperating processing fees can help offset rent or provide an edge to acquire a new fixture or piece of equipment or give a bonus to your high-performing team members.

We fully support the elimination of processing fees on sales tax as a long overdue step, which can meaningfully aid every small business.

Best regards,

John Laucik & Jennifer L Baker, Owners
Chester River Wine & Cheese Company, Inc: Chestertown
Welcome Home Markets: Annapolis | Chestertown | Easton

FMI Swipe Fees On Sales Tax.pdf
Uploaded by: Todd Morgan
Position: FAV

FMI THE FOOD INDUSTRY ASSOCIATION

SWIPE FEES ON SALES TAX

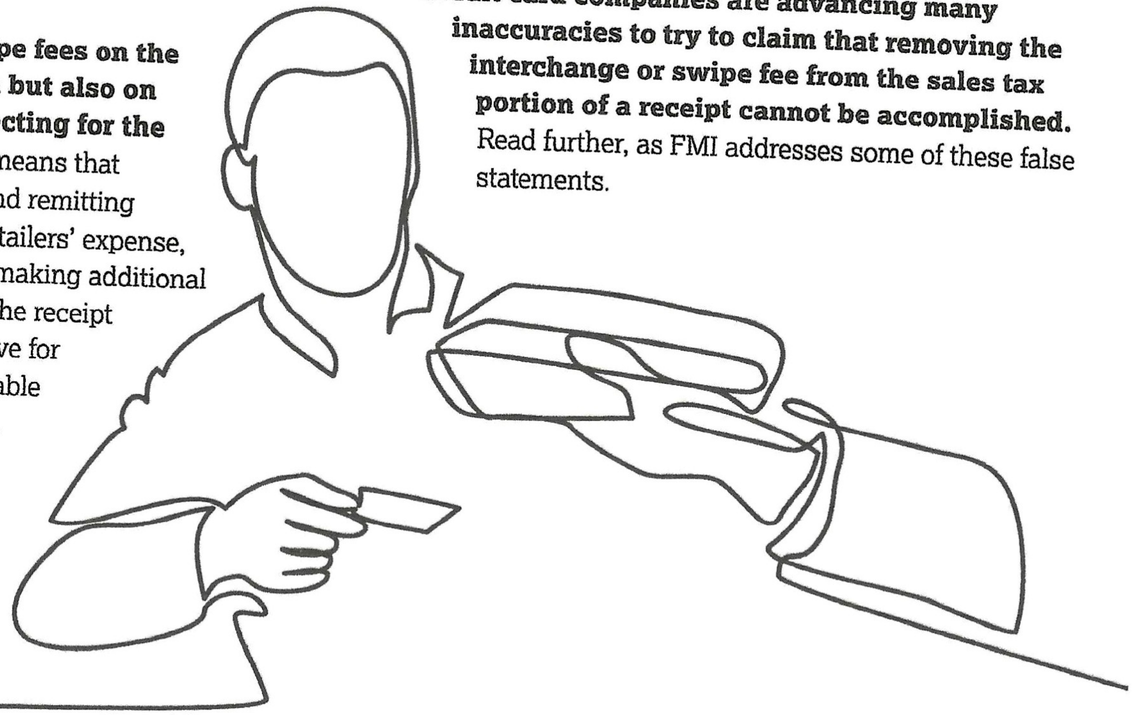
Retailers partner with the government on many issues. One way is how we act as the government's agent in the collection and submission of state and local sales and excise taxes. Retailers accept many forms of payment, including credit cards. Because of COVID, retailers in 2020 saw a seismic shift in card spending as consumers quickly changed their shopping habits in response to the pandemic.

As credit and debit card usage has increased, so have interchange fees charged to retailers by the credit card companies, also known as swipe fees. Retailers generally pay between 2% to 4% in swipe fees on a credit card transaction - fees that exceed the industry profit margin. In 2019, U.S. retailers paid over $116.4 billion in these processing fees, a 7.7% increase from the prior year. In April 2021, in the middle of a pandemic when many businesses were already struggling, Visa and Mastercard had planned to implement rate increases that would have cost US merchants an additional $1 billion in swipe fees, which would have been on top of the $119 billion merchants already paid in 2020 in swipe fees. U.S. Senator Dick Durbin (D-IL) and U.S. Representative Peter Welch (D-VT) sent a **letter** to these two companies requesting they stop their plans to increase interchange fees in April. FMI issued a **statement** applauding the letter. Just a month before the increases were set to take effect, Visa and Mastercard said they would forego the increases for one year – until 2022.

Retailers not only pay swipe fees on the base price of a transaction but also on the sales tax they are collecting for the state and/or locality. This means that while retailers are collecting and remitting sales tax for the state, at the retailers' expense, the credit card companies are making additional profits from the tax portion of the receipt – making it even more expensive for merchants to provide this valuable government service – and even more lucrative for Visa and Mastercard. This actually creates an environment where credit card companies can make more money on a retail transaction than the retailer.

States have the authority to prohibit credit card companies from charging swipe fees on state sales tax. Prohibiting swipe fees on sales tax will keep dollars in the state, stimulating economic activity, versus sending them to networks and banks in other states and countries. This would stimulate economic activity and help lift a costly burden on business at absolutely no cost to the state. In the recent past, when Congress acted to reform the banking industry, American consumers and merchants earned a hard-fought victory over escalating, uncontrollable fees with the inclusion of the debit reform measures in the Dodd-Frank Wall Street Reform and Consumer Protection Act. As a result, significant savings were passed on to consumers. The savings were proven in a study by prominent economist Dr. Robert Shapiro who found that consumers have saved nearly $30 billion since the reforms have been in place and merchants have saved more than $10 billion. (Read more **here**.)

Credit card companies are advancing many inaccuracies to try to claim that removing the interchange or swipe fee from the sales tax portion of a receipt cannot be accomplished. Read further, as FMI addresses some of these false statements.



THE TRUTH ABOUT SWIPE FEES, SALES TAX AND RETAILERS

Credit card companies continue to make false claims in the hopes of confusing lawmakers regarding how easily swipe fees can be removed from the sales and excise tax grocers and other businesses collect for the government. What is frustrating is that during the COVID pandemic as businesses were and still are struggling to survive, banks and card networks are trying to increase their already large profits on a system that was meant to collect badly needed sales tax revenue for the state. Main Street merchants and the hospitality industry need support now more than ever.

False Claim

"The fee retailers pay to electronically transmit money is a cost of doing business. It is voluntary. They do not have to accept cards."

The Truth Having electricity is voluntary too, but customers expect the lights to be on when they walk into our stores—just like they expect us to accept credit cards. Further, the pandemic has demonstrated the necessity of electronic forms of payment. According to Digital Commerce, consumers increased their online spending by a whopping 44% or $861.12 billion, in the U.S. in 2020, and online merchants, including those brick and mortar retailers with an on-line component, may pay even higher credit card interchange fees than those operating only brick and mortar stores.

False Claim

"The real cost of handling cash ranges from 4.7 to 15 percent."

The Truth The costs merchants pay to handle cash is well below 1% and for some merchants it is below 0.2%. Merchants are efficient at cash handling. A 15% cost sounds like someone who needs a lesson from our members in efficiency.

False Claim

"Merchants pay less for accepting cards than for accepting checks."

The Truth Federal law mandates that paper checks settle "at par" or face value; meaning it has an acceptance cost of zero. While there are some costs for handling cash and checks, these costs are well below levels of accepting credit cards.

False Claim

"The benefits of credit cards far outweigh the fee. They include guaranteed payment, fraud protection, cash flow and increased sale opportunities."

The Truth There is no guaranteed payment for electronic transactions. For up to 90 days after a transaction is approved, the bank can reverse that approval and "chargeback" the funds from the merchant. In those instances, the merchant is out the funds from the bank plus the merchandise that the customer collected at the time of purchase. The cost of chargebacks is passed on to merchants and is on top of the $119 billion merchants pay every year in swipe fees for the "benefit" of accepting these cards.

False Claim

"The penalties in some state bills on this issue are absurd and could easily amount to millions a week from a single merchant."

The Truth A review of Section 12 of Visa's Core Rules show that they can charge fines of $50,000 to $200,000 per violation to merchants. Those fines are much higher than the ones included in any previous or pending state bill. More importantly, penalties will be zero for those that comply with the law.

False Claim

"Systems don't support it."

The Truth Yes, they already do. To support business to business (B2B) cards, banks require that merchants pass Level 2 data in the transaction which already has sales tax separated from the purchase amount. Visa and Mastercard mandate system updates twice per year, so any system changes can be implemented during these updates. This can also be implemented via a rebate at the end of the month requiring zero impact to point of sale (POS) systems.

False Claim

"New systems are costly to business."

The Truth Merchants already pay to purchase or rent their PIN pads; what is really costly to business are the billions of dollars in swipe fees that merchants are paying every year.

False Claim

"Fraud/credit risks remain."

The Truth Visa, Mastercard and the banks actually pass fraud costs back to merchants every year in the form of chargebacks. Banks charge cardholders interest to offset credit risk.

False Claim

"These types of bills are costly to small retailers."

The Truth Small retailers will not need specialized equipment to implement. Consider how restaurants today can enter a sales amount followed by a separate tip amount into their PIN pads. Small merchants could enter a pre-tax purchase amount followed by a sales tax amount into the PIN pads. What really hurts small retailers are the billions of dollars in swipe fees that they pay each year.

False Claim

"Consumers lose convenience."

The Truth This claim doesn't make sense. There is no need for two transactions. Do customers pay in two transactions when they leave a tip at restaurants? No, they don't. What consumers are losing is money because they have to pay higher retail prices to cover the billions of dollars in swipe fees that merchants pay each year.

INSPIRE

Arby's BR DUNKIN' JJ SONIC

OUR IMPACT STATE-BY-STATE

In **Maryland**, there are more than 490 restaurants in Inspire's family of brands, including **Arby's, Baskin-Robbins, Buffalo Wild Wings, Dunkin', Jimmy John's,** and **SONIC Drive-In.**

Over 96% of these restaurants are franchised, meaning they are owned and operated by local business owners, of which many are family-owned and operated businesses. In **District 29C**, there are two restaurants in Inspire's family of brands.

Maryland

2023

Hirer.
Bankers opposed
in IL.

9,787 Jobs	**97** Franchisees	**490** Restaurants
13 New Restaurants Built	**$217M** Economic Impact	**$326K** Funds Donated to Philanthropy

which created
234
New Jobs

Interchage fees
in 2023 on sales
tax $15M. in MD
to banks

Arby's | BASKIN•ROBBINS | BUFFALO WILD WINGS | DUNKIN' | JIMMY JOHN'S SANDWICHES | SONIC

INSPIRE

Arby's | BR | DUNKIN' | JJ | SONIC

OUR IMPACT STATE-BY-STATE

In **Maryland**, there are more than 490 restaurants in Inspire's family of brands, including **Arby's, Baskin-Robbins, Buffalo Wild Wings, Dunkin', Jimmy John's,** and **SONIC Drive-In.**

Over 96% of these restaurants are franchised, meaning they are owned and operated by local business owners, of which many are family-owned and operated businesses. In **District 29C**, there are two restaurants in Inspire's family of brands.

Maryland

2023

9,787
Jobs

97
Franchisees

490
Restaurants

13
New Restaurants Built

which created

234
New Jobs

$217M
Economic Impact

$326K
Funds Donated to Philanthropy

Arby's | BASKIN • ROBBINS | BUFFALO WILD WINGS | DUNKIN' | JIMMY JOHN'S SANDWICHES | SONIC

OUR IMPACT STATE-BY-STATE

In **Maryland**, there are more than 490 restaurants in Inspire's family of brands, including **Arby's, Baskin-Robbins, Buffalo Wild Wings, Dunkin', Jimmy John's,** and **SONIC Drive-In.**

Over 96% of these restaurants are franchised, meaning they are owned and operated by local business owners, of which many are family-owned and operated businesses. In **District 29C**, there are two restaurants in Inspire's family of brands.

Maryland

2023

9,787
Jobs

97
Franchisees

490
Restaurants

13
New Restaurants Built

which created
234
New Jobs

$217M
Economic Impact

$326K
Funds Donated to Philanthropy

HB29 Del Todd Morgan Testimony.pdf

Uploaded by: Todd Morgan

Position: FAV

Todd B. Morgan
Legislative District 29C
Calvert and St. Mary's Counties

Environment and Transportation
Committee

The Maryland House of Delegates
6 Bladen Street, Room 215
Annapolis, Maryland 21401
410-841-3319 · 301-858-3319
800-492-7122 *Ext.* 3319
Todd.Morgan@house.state.md.us

THE MARYLAND HOUSE OF DELEGATES
Annapolis, Maryland 21401

Testimony in Support of HB29 Electronic Payment Transactions - Interchange Fees - Calculation and Use of Data

January 21, 2025

Good Afternoon Chair Wilson, Vice-Chair Crosby and Esteemed Members of the Economic Matters Committee:

Today, I present a bill that I believe will capture attention. While last session might have been known for fee increases, this bill seeks to chart a different course—it introduces a fee *decrease*.

The issue at hand revolves around interchange fees, commonly referred to as "swipe fees." These are the charges imposed whenever a credit card is used for a transaction, affecting both businesses and consumers. For credit card companies and banks, it is big business. In 2023 alone, swipe fee revenues reached a staggering $135.75 billion. I have added a link to a CSPAN clip from a recent U.S. Senate hearing on fees and profit margins: Sen. Josh Hawley to Visa & Mastercard: "This is classic monopolistic behavior." | C-SPAN.org from Visa and Mastercard in my written testimony for your viewing.

My bill, quite simply, proposes to eliminate swipe fees on *sales tax* and *tips*. It may sound straightforward, but this idea has stirred significant debate. During the holiday season, some might view me as the Grinch or even the Grim Reaper targeting the industry.

To put things into perspective, Maryland businesses collectively paid $156,911,373.55 in swipe fees on sales tax alone in 2023, according to CMSPI, a prominent research group (How much interchange was paid on sales tax in the U.S.?). That is a massive burden—and it does not even account for tips.

Let us consider everyday scenarios: How many of you use cash versus credit cards? More importantly, how many have encountered surcharges for paying with a card? Swipe fees typically hover around 3%. While 3% may seem small, in aggregate, it becomes a significant expense. Most people today do not carry substantial amounts of cash. Raise your hand if you regularly carry more than $100.

It is also important to note that swipe fees are not uniform. Large corporations like Walmart, Target, and Home Depot can negotiate favorable rates. Meanwhile, online merchants often face higher fees due to additional variables.

Critically, this bill will not reduce Maryland's sales tax revenue or impact the state's coffers. It is here to support our citizens. Here is how it works: when a card transaction occurs, the sales tax is applied, and merchants remit it to the state as usual. However, the swipe fee charged on the *tax* portion—let us say 18 cents on a $100 bill—would no longer apply. That savings would go back to the merchant and, ultimately, the consumer. These small amounts add up quickly.

Now, to acknowledge the other side of the equation: Credit card companies and banks do provide value through "float"—the gap between a purchase and when the bill is due, often up to 50 days. While there is risk involved, such as default on payments, the profit margins in this industry remain substantial.

Consider the holiday season as an example. If a consumer spends $1,000 on gifts but can only pay $400 when the bill is due, the remaining $600 accrues interest at an average rate of 18%. For those consumers, points and perks offered by credit cards become less valuable as debt piles up. As of Q3 2024, total U.S. credit card debt reached $1.17 trillion, with the average American owing $6,671.

Is there precedent for this bill? Yes, it was introduced and passed by the Illinois State Legislature. It is being challenged by the banking industry and is now in court. I have asked our Attorney General for their opinion on this proposed legislation.

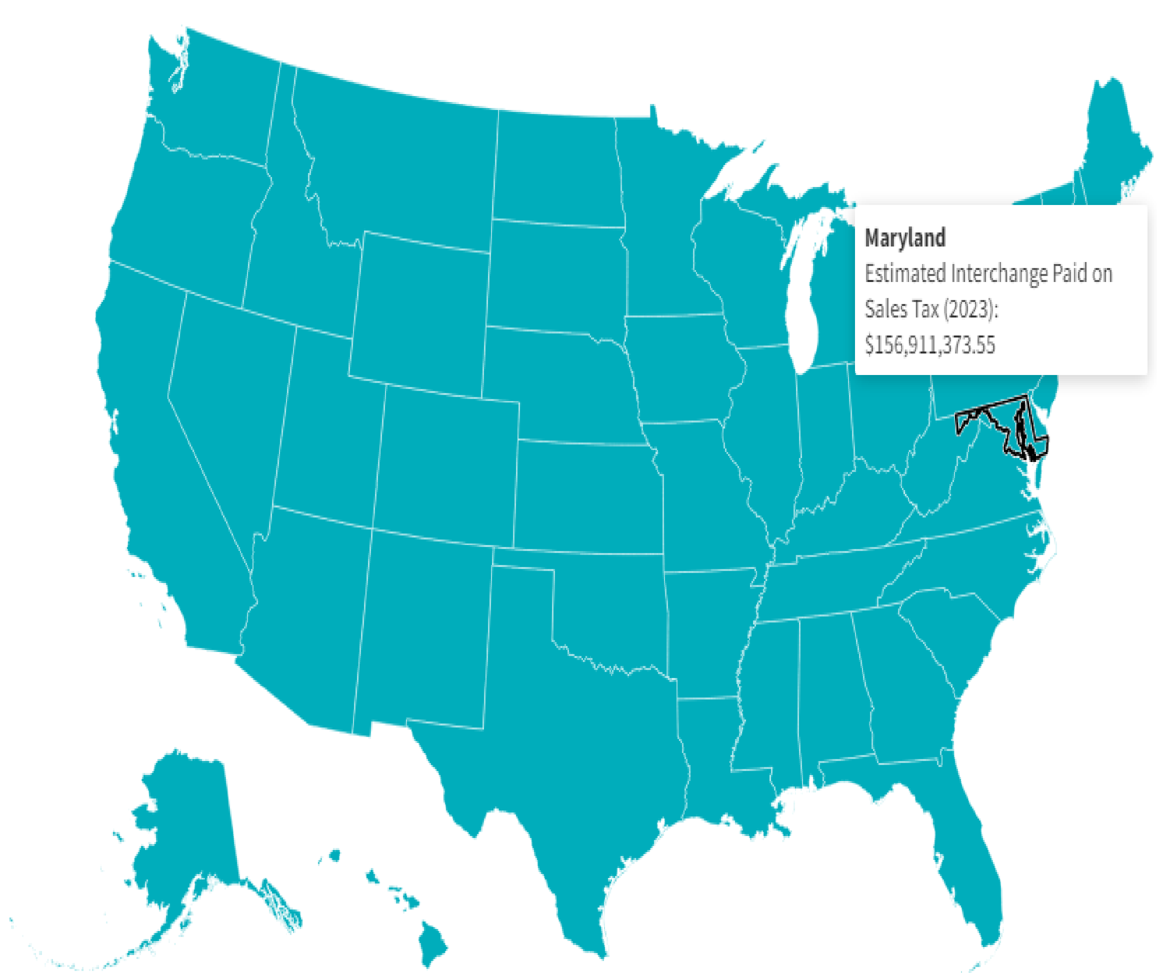
Finally, I acknowledge this bill presents challenges, particularly for the banking industry, which would need to revamp its systems. This is no small task. Interchange fees are broken up, so in so many words, everybody gets a bite of the apple. It will not be resolved by a lone coder in a basement. It will require significant resources. However, given the substantial profits being generated, I believe it is both feasible and necessary.

Thank you for considering this important issue. I look forward to hearing from our expert panel and engaging in further discussion.

Estimated Interchange Paid on Select State-Level Taxes

Hover your cursor over a state to see interchange paid

Estimated Interchange Paid on Sales Ta:



Note: Delaware, Oregon, Montana, and New Hampshire don't have applicable sales tax

A Flourish map

Methodology

Please note: Estimates have been updated for 2023 to reflect the total card fee estimates provided in CMSPI's State of the Industry Report. Gas and Diesel excise tax estimates have also been updated to reflect the impact of state excise taxes rather than federal.

Consumption numbers have been modeled using state specific growth metrics around number of new vehicles on the road between 2021 and 2023.

Interchange Estimates

Total interchange fees charged on credit and debit cards have been analyzed using CMSPI estimates and analysis of published credit card interchange fee schedules and Federal Reserve data on debit card interchange fees.

Interchange Paid on Sales Tax

We have taken the sales tax data from (source 1) to show total sales tax paid by state, and then using public financial reports from Visa and Mastercard, ascertained the total volume through debit and credit cards, which have been split by state by GDP (source 2).

Interchange Paid on Gasoline and Diesel Excise Tax

Using state-by-state gasoline and diesel consumption data (source) and state-by-state excise tax rates for diesel and gasoline (source) from the EIA, we're able to estimate the total excise tax expenditure by state.

Interchange Paid on Alcohol Excise Tax

Sourcing beer, wine, and spirit consumption by state, we calculate the total excise tax expenditure by state using the excise tax rate by state as reported by the Tax Policy Center.

NOVEMBER 19, 2024 | CLIP OF SENATE HEARING ON COMPETITION IN THE CREDIT CARD MARKET

Report Video Issue

Sen. Josh Hawley to Visa & Mastercard: "This is classic monopolistic behavior."

Sen. Josh Hawley (R-MO) to Visa & Mastercard: "This is classic, classic monopolistic behavior. Yet you're testimony...is you don't want any ... read more

HB29 Sponsor Amendment.pdf
Uploaded by: Todd Morgan
Position: FAV

HB0029/153627/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

16 JAN 25
16:39:31

BY: Delegate T. Morgan
(To be offered in the Economic Matters Committee)

AMENDMENTS TO HOUSE BILL 29
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, strike "and gratuity"; and in line 9, strike "and gratuity".

AMENDMENT NO. 2

On page 3, strike in their entirety lines 25 through 27, inclusive; and in lines 28 and 31, strike "**(9)**" and "**(10)**", respectively, and substitute "**(8)**" and "**(9)**", respectively.

On page 4, in lines 1, 3, 12, 16, 21, and 23, strike "**(11)**", "**(12)**", "**(13)**", "**(14)**", "**(15)**", and "**(16)**", respectively, and substitute "**(10)**", "**(11)**", "**(12)**", "**(13)**", "**(14)**", and "**(15)**", respectively.

On page 4, in line 24, before "**THAT**" insert "**OR DATA**"; in line 28 and 29, strike "**OR GRATUITY**"; and in lines 23, 25, 31, and 33, in each instance, strike "**AND GRATUITY**".

On page 5, in lines 2, 3, 5, 6, 7, 11, 13, 16, 19, 20, and 24, in each instance, strike "**AND GRATUITY**"; in line 7, after "**SUBSECTION**" insert "**AS PART OF THE AUTHORIZATION OR SETTLEMENT PROCESS**"; in line 12, after "**ISSUER**" insert "**OR PAYMENT CARD NETWORK**"; in line 23, after "**ISSUER**" insert "**OR PAYMENT CARD NETWORK**"; in line 26, strike "**IS**" and substitute "**:**

1. SHALL REFUND THE MERCHANT THE INTERCHANGE FEE CALCULATED ON THE TAX AMOUNT RELATIVE TO THE ELECTRONIC PAYMENT TRANSACTION; AND

2. IS"; and

in line 32, strike "**OR GRATUITIES**".

Interchange Fee Prohibition FAQ.pdf
Uploaded by: Todd Morgan
Position: FAV

Illinois Interchange Fee Prohibition Act FAQs

Q1: Fraud – Don't credit card companies need swipe fees on taxes to cover fraudulent charges?

NO. Retailers pay for significant amounts of credit card fraud. They don't receive "Guaranteed Payment."

1. **Retailers pre-pay for fraud through interchange fees and they far exceed what is needed to cover banks' fraud losses.**
   - Swipe fees on purchases far exceed the credit card industry's fraud costs. Merchants paid $172 billion in swipe fees last year and payment card fraud was $11 billion.
   - In addition, merchants pay networks to cover mandated fraud solutions. And, card companies require merchants to invest in costly equipment to prevent card fraud (i.e., EMV chip readers).

2. **On top of that, retailers pay for fraud in chargebacks.**
   - A chargeback is when the retailer is charged back the cost for the stolen product/service by the bank who issued the card.
   - When fraudulent purchases happen, the merchants lose the product, which was purchased fraudulently, must still remit tax on the goods to the state, and generally has to pay "chargebacks" to the bank card issuer (as well as fees to the networks) to cover the cost of the fraud.

The idea that retailers should pay limitless fees to the giant credit card companies because payment is "guaranteed" makes no sense when most fraud costs simply get charged back to retailers.

Q2: Technology – Does existing equipment and technology need to be replaced to ensure the law can go into effect?

NO. The law does not require any new systems – for banks or retailers.

- While the processors and banks keep saying they would need to build new systems to recognize tax amounts at the point of sale, that isn't true.
- Today merchants pass 3 data fields –(1) purchase amount, (2) tax amount, and (3) total – to processors, which send that data to the card networks, which determine the swipe fees to be paid.
  - Banks receive settlement of funds, including swipe fees from the network or processor.
- It is possible to stop charging swipe fees on tax amounts at the point of sale much more easily than the financial services industry suggests. And if they can't, the law provides for swipe fees on sales and excise taxes to be refunded to the retailer after the fact through a reimbursement process

- To support tax-exempt business-to-business sales, banks already require that merchants collect sales tax data.[1] In fact, the "Level 2" data transmitted with each transaction already has sales tax separated from the purchase amount. Visa and Mastercard mandate system updates twice per year already, so any changes to do this would be part of the regular process of doing business.
- Not only do the card companies collect this and other Level 2 data, they also try to sell it back to merchants (Visa now calls this service "Visa Spend Clarity").[2] It was formerly "IntelliLink" and has included local tax support.
- In the event that a retailer is unable to separate sales tax information at the point of sale, the law allows the retailer to send the tax information to the card company after the sale and allows the card network to refund the swipe fees to the retailer after the fact. This means no investments in new systems are necessary. Retailers can just send the tax information and get a rebate later.

Q3: What if a retailer's system is outdated or can't handle this change? Will they have to pay a lot to upgrade?

NO. This is voluntary for retailers and the law allows for a simple, after-the-fact reimbursement process if the change can't happen at the point of sale.

- The bill was written to allow for flexibility. It provides a simple alternative in that retailers can submit their tax or tip information later and get a reimbursement of the fees on those transactions.
- Those after-the-fact processes already exist. In fact, the credit card companies use them to take billions more dollars away from retailers months after transactions happen. They shouldn't be able to complain that a small fraction of that money may come back the other way.

Q4: Won't consumers lose convenience because they will need to "swipe twice" in order to pay for a product if swipe fees can't be collected on taxes?

NO. Consumers will not need to swipe their cards two times in order to make a purchase.

- There is no need for two transactions – and claiming a card will need to be swiped twice just doesn't make sense.
- Do customers pay in two transactions when they leave a tip at restaurants? No, they don't. The card is only swiped one time.
- When swipe fees are collected on state-mandated taxes, what consumers actually lose is money because they have to pay higher retail prices to cover the billions of dollars in swipe fees that merchants pay each year.

---

[1] For example, sales tax data is on track 2 of credit card transaction data (sometimes referred to as Level 2 data). Visa specified this in their own document written for petroleum retailers at page 13, footnote 3, but moved the document when merchants pointed it out during discussion of state legislation.

[2] https://usa.visa.com/run-your-business/commercial-solutions/solutions/intellilink.html

Q5: When a fraudulent transaction occurs and a merchant gets "charged back" (and has lost the goods), does the state still get to keep the sales tax that the merchant has remitted to them?

YES.

Q6: Don't financial institutions need to recover swipe fees on the product and the taxes paid on that product because they are financing the total amount of the purchase plus tax? Isn't the swipe fee a form of cost recovery for the "guarantee" they provide for the total purchase?

NO. Financial institutions in the United States collect the highest swipe fees rates in the world – and will still be the highest in the world even if fees aren't collected on tax amounts. Financial institutions are well compensated for the service they provide to purchase a product with a payment card. Recovering swipe fees on the taxes is just additional windfall profit.

- A PIN debit transaction is "real time" with zero risk to funds, despite the swipe fee associated with a PIN debit transaction, the bank is guaranteed payment.
- A signature debit transaction is guaranteed payment since it is drawn from actual funds in an account.
- A credit payment is payment extended on credit. Banks evaluate a consumers' risk before extending them a credit card, and they protect against that risk by charging consumers high rates of interest. In the U.S., the average credit card interest rate is more than 20%.[3]
- Finally, in addition to the interchange fee, merchants pay a fee for "fraud" that covers the risk of nonpayment.

Q7: Won't Visa/Mastercard just raise their rates to recoup lost profits once the law takes effect?

NO, they will change their rates anyway – by as much as they think they can get away with. Even if the law didn't exist, the networks routinely raise their rates.

- In fact, the networks raised their rates each of the last two years in spite of inflation. They did this despite a bipartisan group of federal lawmakers writing to them to ask them not to do so.[4]

---

[3] "Current credit card interest rates" Bankrate.com (June 20, 2024) (Current Credit Card Interest Rates | Bankrate).

[4] *See* https://www.durbin.senate.gov/newsroom/press-releases/durbin-marshall-welch-van-duyne-urge-visa-and-mastercard-to-call-off-planned-swipe-fee-increases-on-vulnerable-american-families-and-businesses.

- In early 2022, Visa's CEO and CFO stated on earnings calls that, "historically, inflation has been positive for us."[5]

Q8: If the law takes effect, will banks/processors need to have specific transaction level data to know what tax to charge? Won't this be a privacy violation because retailers will need to tell banks that a customer is purchasing something like eggs, milk, or gasoline?

NO. Tax information is already passed today and does not include any product level data.

As stated above all they have to do is pass an existing data field of the tax amount to networks, which calculate interchange.

Q9: Is it a better solution for retailers to be paid back through vendor compensation?

NO. Shifting money to taxpayers isn't a fair solution.

- Swipe fees are hidden fees that consumers end up paying. Shifting these costs onto taxpayers would only perpetuate the problem and create bad incentives for the credit card companies to raise fees even higher.
- Banks who issue these cards should not swipe the taxable portion of the transaction from merchants. It shouldn't be up to the taxpayer to right their wrong. Period.

Q10: It's a global system, how can this change be made to only one state?

- Visa and Mastercard already charge more than 600 different swipe fee rates to merchants. They have made the system incredibly complex. Illinois making this change does not add to that complexity in any real way.
- Processing systems already handle varying taxes by states.
- As stated above, if a retailer cannot separate this information at the point of sale, they can receive reimbursement after the fact – just like the other after-the-fact settlement processes that the card industry has already put in place.

---

[5] Q2 April 26, "And then, the last thing I'd say, net-net, historically, inflation has been positive for us." Al Kelly – CEO; https://investor.visa.com/events-calendar/Event-Details/2022/Q2-2022-Visa-Inc-Earnings-Conference-Call/default.aspx; Q1 Jan 25th, "So, net-net, we're a beneficiary of inflation" Vasant Prabhu - Vice Chairman and Chief Financial Officer, https://investor.visa.com/events-calendar/Event-Details/2022/Q1-2022-Visa-Inc-Earnings-Conference-Call/default.aspx

Understanding Swipe Fees

Q11: How much of the fee on the sales or excises tax actually trickles down to a local bank or credit union?

100% of interchange goes to the bank or credit union that gave the consumer the credit card. The law is only addressing the tax and tip portion of the interchange fee. These banks and credit unions will continue to collect the highest interchange fees in the industrialized world.

Q12: Won't this legislation ultimately hurt small businesses?

No. This legislation will reduce the costs that small businesses pay to collect taxes for the state.

Q13: Will this change threaten credit card rewards programs?

No. This is a scare tactic from the banks.

- Banks use rewards to attract customers to their products, it's disingenuous for banks to say that rewards will go away because banks are no longer making interchange on sales tax when they are still making interchange on the transaction amount.
- In countries around the world where fees are much lower than they are here, the banks still offer customers rewards. It is simply a marketing expense for them which they will continue like other businesses do to attract customers.
- Retailers offer rewards programs and operate on far thinner margins (avg. retail profit margin is 2.5%, money center banks is 27%).

Q14: Why do I see gasoline offered for a cash discount?

- Merchants fully understand their cost of goods sold and offer prices to consumers based on these costs.
  - Fuel retailers know it costs them a lot to accept plastic payments. Thus, many retailers will offer a cash discount, which accounts for the lower cost of processing a cash transaction compared with a payment card, in order to incentivize consumers to pay with the less expensive payment option (i.e., cash).

Final Thoughts

- Credit card companies argue the "sky is falling" every time someone wants to make common-sense changes to the world of swipe fees.
- They argued that debit cards would go away when the U.S. Congress decided to regulate them. That was more than 12 years ago – do you still have a debit card?

- They argued credit cards would enter a "death spiral" when the Reserve Bank of Australia and the European Competition Commission investigated them and limited swipe fees. Nonetheless, credit card usage is up in both locations and credit card rewards are still plentiful.
- When simple facts are against them, credit card companies have nothing left to sell but fear.

Record Profits at Giant Card Issuer JPMorgan Chase
Uploaded by: Todd Morgan
Position: FAV

FOR IMMEDIATE RELEASE

Contact: J. Craig Shearman
(202) 257-3678 craig@shearmancommunications.com

PERMALINK

Record Profits at Giant Card Issuer JPMorgan Chase Show Need to Address Credit Card Swipe Fees

WASHINGTON, January 17, 2025 – As Congress focuses on huge profits in the credit card industry, record annual profits reported this week by the nation's largest card issuer show the need for lawmakers to address soaring swipe fees charged to process transactions, the Merchants Payments Coalition said today.

"Members of Congress have made it clear that card industry profits are out of control and leave plenty of room to lower credit card swipe fees that drive up costs for small businesses and prices for American consumers," MPC Executive Committee member and National Association of Convenience Stores Senior Vice President of Government Relations Lyle Beckwith said. "Profits at card-issuing megabanks are huge and profits at Visa and Mastercard are astronomical. It's time for Wall Street to learn to compete the same as Main Street businesses that struggle just to break even."

"You're making over 50% profit margin," Senator Josh Hawley, R-Mo., told Visa and Mastercard executives at a Senate Judiciary Committee hearing in November. "You have over 80% of the market but you don't want any more competition. I'm having a hard time finding that position defensible, let alone sympathetic. I mean, it's unbelievable the amount of money you're making. It's unbelievable what you're charging small businesses and consumers and yet your testimony is please, please, please, please, please we can't possibly have any competition."

JPMorgan Chase reported Wednesday that 2024 profits totaled a record high $54 billion, a 17.9% increase over 2023. JPMorgan is the largest U.S. issuer of Visa and Mastercard credit cards, with twice the dollar volume as No. 2 Citigroup. Citigroup reported 2024 net income of $12.7 billion, up 38% year over year, while Wells Fargo reported $19.7 billion, up 3.1%, and Bank of America reported $27.1 billion, up 2.3%.

High swipe fees, which have jumped 50% since the pandemic and hit a record $172 billion in 2023, contribute to enormous profits for the card industry. Based on their earnings reports, JPMorgan Chase had a net profit margin of 31.2% in 2024, Citigroup 15.7%, Wells Fargo 24% and Bank of America 26.6%. The numbers are even higher at Visa, which had profits of 55% as of October, and Mastercard, which had 45%.

The earnings reports come as Congress is considering the Credit Card Competition Act to address swipe fees, which are too much for small merchants to absorb and drive up prices by over $1,100 a year for the average family. The fees are rising largely because Visa and Mastercard each centrally set the swipe fee rates charged by all banks that issue cards under their brands and restrict processing to their own networks.

Under the bill, banks with at least $100 billion in assets would be required to enable credit cards to be processed over at least one unaffiliated network like Star, NYCE or Shazam in addition to Visa or Mastercard. The measure is expected to result in competition over fees, security and service that would save merchants and their customers over $16 billion a year.

About MPC
The Merchants Payments Coalition represents retailers, supermarkets, convenience stores, gasoline stations, online merchants and others fighting for a more competitive and transparent card system that is fair to consumers and merchants. Follow MPC on Twitter, Facebook or LinkedIn for the latest on swipe fees.

ETA Opposition - MD HB 29.pdf
Uploaded by: Claire Hebert
Position: UNF

ELECTRONIC TRANSACTIONS ASSOCIATION

1300 Connecticut Avenue
Suite 475
Washington, DC 20036

202.828.2635
800.695.5509
electran.org

January 17, 2025

The Honorable C. T. Wilson
Chair of the House Economic Matters Committee
Maryland State Legislature
230 Taylor House Office Building
Annapolis, Maryland 21401

Re: ETA Opposition to HB 29

Dear Chair Wilson, Vice Chair Crosby, and Distinguished Members of the Committee,

On behalf of the Electronic Transactions Association (ETA), the leading trade association representing the payments industry, I appreciate the opportunity to express our concerns regarding HB 29. Collectively, ETA members process $47 trillion annually, operating within an efficient and effective payments system. Significant changes, such as removing portions of interchange, pose risks to innovation and system security—both of which are partially funded through interchange fees.

Examples From Other States: The unworkable nature of the proposal is emphasized by the fact that over 60 similar proposals to prohibit interchange on the sales tax portion of electronic transactions have been considered between 2006 and 2024 and all but one have failed to pass their respective state legislature. The unintended consequences of such a policy change are not known.

- **Illinois:** Illinois is the only state to pass similar legislative language during the late-night closing hours of its 2024 session. A lawsuit filed by the Illinois Bankers Association and the Illinois Credit Union Leagues resulted in a preliminary injunction protecting federally chartered banks from the law's implementation. However, the partial ruling still allows the new law to apply to state-chartered banks and credit unions harming the smallest financial institutions in the state. Experts estimate compliance costs ranging from hundreds of millions to $10 billion, requiring years to develop new technologies and encourage adoption.
- **Georgia:** In 2024, the Georgia House of Representatives convened a legislative study committee to study the issue, focusing on swipe fees and interchange fees. After thorough analysis, the committee recommended reforming its vendor compensation program rather than removing interchange fees from the sales tax portion of transactions.
- **Tennessee:** The Tennessee Advisory Commission on Intergovernmental Relations (TACIR) studied the costs associated with interchange fees on tax portions of transactions. In its December 2024 report, the Commission advised Tennessee to refrain from action until more information became available.

ELECTRONIC TRANSACTIONS ASSOCIATION
1300 Connecticut Avenue
Suite 475
Washington, DC 20036
202.828.2635
800.695.5509
electran.org

Impact on Consumers and Employees: Proponents of HB 29 argue that removing sales tax from interchange fees would save consumers money. However, there is no guarantee that merchants would pass these savings on to consumers, as many costs are already embedded in existing pricing structures.

- **Service Disruptions:** Consumers would experience immediate inconveniences and inefficiencies resulting from the disruption of an otherwise efficient and secure payments ecosystem.
- **Checkout Complications:** Consumers may face challenges such as:
    - Inability to use their card for certain transactions.
    - Requirement to pay taxes and gratuities separately, potentially in cash.
    - Slower checkout times and reduced satisfaction, particularly for purchases with varying tax rates (e.g., groceries).
- **Decreased Rewards:** Consumers risk losing valuable benefits, such as airline miles, cashback, and loyalty program rewards, which are funded in part by interchange fees.
- **Loss of Privacy:** Compliance with HB 29 would necessitate the collection and auditing of itemized transaction data by payments companies to ensure accurate tax calculations. This would compromise the current level of privacy consumers enjoy regarding their purchase details.
- **Pass-Through Costs:** Merchants may pass the significant costs of implementation—such as compliance and technology updates—directly to consumers through increased prices.

Impact to Small Businesses: While big box retailers may be able to adjust their systems more readily to comply with the bill's requirement of providing additional sales tax information, small merchants who currently use a point-of-sale (POS) terminal with more limited functionality would need new software and, in most cases, new hardware, costing them additional money up front. The ability for small businesses to offer a multitude of payment options is critical to their ability to compete with big-box retailers, give their customers the options they desire, and remain flexible in times of crisis. Small businesses would bear the greatest burden of implementing HB 29 due to the cost and complexity of compliance.

- **Technology Upgrades:** Unlike larger retailers, small merchants using basic point-of-sale (POS) terminals would need to invest in new hardware and software to meet the bill's requirements.
- **Administrative Costs:** Compliance would require new processes, increased audits, and extensive employee training, further straining small businesses financially and operationally.
- **Out-of-State Transactions:** Small businesses would also face additional challenges developing systems to accommodate transactions originating from outside the state.

Development of entirely new technology: The current interchange fee model is based on the final purchase amount, without specific data on goods, services, or applicable tax rates. While payment networks have developed advanced tools to aid merchants—such as POS systems that calculate and apply tax rates for specialty items—HB 29 would require entirely new technology and new separate Maryland based payment network separated from the global payment network to capture state sales tax, gratuity amounts, and itemized receipt data.

Creation of Privacy Issues: Implementing HB 29 would mandate the acquisition and storage of detailed transaction data, including SKU-level information, by the payments industry. This level of granularity, currently not collected, raises significant privacy concerns for consumers. Each transaction would need to be itemized and audited to ensure compliance with state and local tax requirements, eroding the privacy of individual purchases.

The benefits of interchange: Interchange fees are a cornerstone of the payments ecosystem, enabling secure, fast, and reliable electronic transactions.

- **For Consumers:** Interchange fees fund consumer benefits like cashback, rewards programs, and the research and development of innovative payment technologies.
- **For Merchants:** These fees support fraud detection and prevention, ensure system reliability, and provide access to critical services that drive customer convenience and satisfaction.

Interchange rates are market-driven, competitive, and negotiable, enabling businesses to secure terms suited to their needs. Over time, competition has naturally lowered interchange costs, ensuring affordability while supporting the infrastructure necessary for a robust and secure payment system.

Conclusion: The creation of a new Maryland based payment network separated from the global payment network under the requirements of HB 29 would have significant adverse effects on both small businesses and consumers. Small business owners would face substantial financial and operational burdens to comply with the new mandates, while consumers would likely bear the cost of these changes through increased prices and diminished benefits.

* * *

We appreciate you taking the time to consider this important issue. More information is located on the next page. If you have any questions or wish to discuss further, please contact me.

Respectfully,

Brian Yates

Brian Yates
Senior Director, State Government Relations
Electronic Transactions Association
202.677.7417 | byates@electran.org

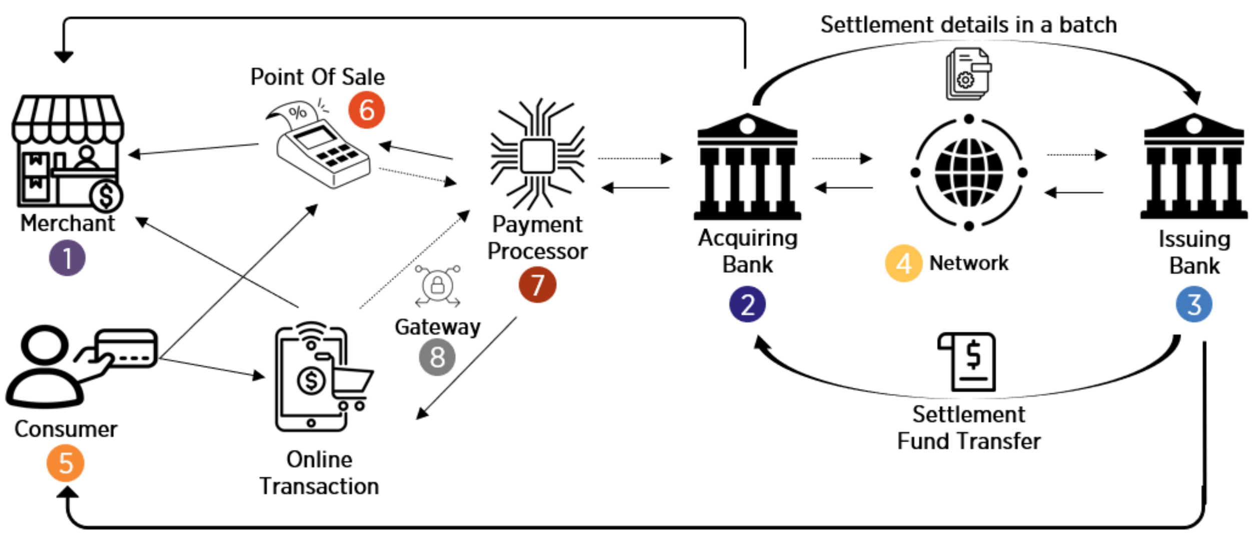
ELECTRONIC TRANSACTIONS ASSOCIATION

1300 Connecticut Avenue
Suite 475
Washington, DC 20036

202.828.2635
800.695.5509
electran.org

Overview of The Payments Ecosystem

Summary: The payments industry has remained at the forefront of developing innovative payment technology, providing merchants and consumers with safety, security, speed, and ease for transacting electronic payments, not to mention increasingly numerous options for doing so. These developments are a result of many stakeholders acting seamlessly and in unison across a complex ecosystem that processes payments. Each of the stakeholders below provides valuable and essential services to merchants and/or consumers.



1. **Merchants**: provide goods or services and agree to accept credit and/or debit cards according to their merchant and processing agreements with their acquirer; receive payment details through point of sale systems, or online; when a merchant makes a sale using a customer's electronic payment card, the system that processes the transaction recognizes only the final purchase amount on which interchange is based.

2. **Merchant acquirers**: provide access to payment networks and presents transaction information from merchants to payment networks.

3. **Issuing entities**: financial institution or commercial entity that provides consumers with a payment instrument (such as a credit or debit card).

4. **Payment networks**: exchange data between card issuing entities and merchant acquiring entities and settles payments.

5. **Consumers**: hold payment instruments and participate in the marketplace.

6. **Point of Sale (POS) systems**: electronic equipment used for pricing and recording transactions, which can be in the form of software, hardware, or combination; these systems DO NOT provide detailed transaction information, (e.g., items bought, tax rate), to neither acquirers or card networks.

7. **Processors**: provide payment processing across the payment network; may be an acquirer, and may, in some cases, serve both the acquiring and issuing sides of a transaction.

8. **Gateways**: an internet-based service that transports credit card information from a computer terminal or website to a credit card processor.

HB 29_AmericanFinancialServicesAssociation_UNF.pdf
Uploaded by: Elora Rayhan
Position: UNF

American Financial Services Association Testimony
Opposing Maryland House Bill 0029

Testimony of Danielle Fagre Arlowe
Senior Vice President, American Financial Services Association

January 21, 2025

House Committee on Economic Matters

For the record, the American Financial Services Association, known as AFSA, is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members do not provide payday or vehicle title loans.

We are deeply concerned about House Bill 0029, which seeks to artificially limit interchange fees – the fees merchant banks pay to card issuing banks – on the gratuity and sales tax portions of a transaction. We strongly oppose this bill, which serves simply to transfer the costs of processing gratuities and collecting sales tax on electronic payments from retailers to financial institutions, including AFSA members.

HB 0029 has strong similarities to the Illinois Interchange Fee Prohibition Act (IFPA), passed by that state's legislature last year. This law is currently the subject of a lawsuit, and, last month, a federal district court granted a partial preliminary injunction against it. The court found Illinois Bankers and fellow plaintiffs have shown they are likely to prevail on the merits of their claim that the IFPA's Interchange and Data Usage Prohibitions violate the federal rights of national banks and are preempted by the National Bank Act (NBA).

This means the IFPA might apply only to Illinois' state chartered financial institutions. By passing it, Illinois has potentially put its own community banks and credit unions at a competitive disadvantage to national players, raising the specter that they will seek out federal charters to avoid its limitations. This could decimate state banking in Illinois and is surely not what policymakers intended. It should be a clear warning to Maryland as it considers similar legislation.

The Office of the Comptroller of the Currency (OCC), the federal regulator tasked with ensuring the safety and soundness of financial institutions, filed an amicus opposing the IFPA and called it "ill-conceived, highly unusual, and largely unworkable." The OCC wrote, "If the IFPA is allowed to remain in effect, it is likely that fraud risk would increase significantly, consumers services would be constrained, and public trust would decline" and, if other states copied Illinois, it would create "a fractured, highly inefficient, and unworkable payment system that would materially affect interstate commerce." All these concerns apply to equally HB 0029.

At the most basic level, we respectfully contend that the collection of sales tax and the processing of gratuities in a retail transaction should not be the responsibility of a financial institution, simply because electronic payments are used at the point-of-sale. By removing the sales tax and gratuity element from a transaction for the purposes of calculating interchange, HB 0029 would leave financial institutions with two options: Either absorb the cost of collecting retailers' sales tax and processing gratuities themselves, to the tune of millions of dollars annually, or decline to collect sale tax or process gratuities on electronic transactions, leaving customers to settle in a separate transaction using cash or check. Neither of these options are good ones.

Over the last 17 years, 29 states have introduced a total of 58 bills like HB 0029, none of which (apart from Illinois' bill) have passed. Much of the debate around this legislation has centered on whether it is possible to develop the necessary technological infrastructure to exempt sales tax and gratuities from interchange fee calculations. Though this remains a legitimate concern, it might be better to focus on what developing and operationalizing such an infrastructure would cost the state, merchants and financial institutions. It is by no means clear that HB 0029 would make financial sense, given the investment required to set it up.

In conclusion, it is self-evidently unfair for retailers, restauranters and others to expect financial institutions to bear their costs for the collection of sales tax and the processing of gratuities. On top of this, however, is the remote likelihood that the bill will, upon passing, result in a workable and cost-effective system, operating as an outlier in the global payments system.

For these reasons, we oppose HB 0029 as written. Thank you for the opportunity to submit our testimony. If you have any, please do not hesitate to contact me at 952-922-6500 or dfagre@afsamail.org.

HB0029 - MBA - UNF - GR25.pdf
Uploaded by: Evan Richards
Position: UNF

HB 29 - Electronic Payment Transactions - Interchange Fees - Calculation and Use of Data
Committee: House Economic Matters Committee
Date: January 21, 2025
Position: Unfavorable

The Maryland Bankers Association **STRONGLY OPPOSES** HB 29. This legislation, which prohibits the application of an interchange fee on the sales tax and gratuity portion of a transaction, upends the global payments system and will increase the costs of electronic payments for Maryland banks, businesses, and consumers.

Maryland banks take pride in the services they provide to their customers, including the issuance of electronic payment methods like debit and credit cards. These cards provide customers with convenience when shopping, protection that holds them harmless against fraudulent transactions, and in the case of credit cards, participation in rewards programs and other benefits. Offering these benefits allows smaller Maryland-chartered banks to remain competitive in the financial services marketplace.

Illinois is the only state in the country that has passed legislation like HB 29. This legislation has been challenged in federal court, and **a preliminary injunction issued on the case states that federally-chartered thrifts and national banks were likely to succeed in their preemption argument. If this argument holds, only Maryland-chartered banks would be impacted by HB 29.** Not only do banks not have the systems in place to separate this fee from sales tax and gratuity, but this substantial loss of revenue will force them to either reconsider offering some of the benefits they currently provide or increase the cost of products and services. Maryland-chartered banks already face significant pressure to remain competitive, and HB 29 will put our community banks at an even greater disadvantage.

Accordingly, MBA strongly urges the issuance of an **UNFAVORABLE** report on HB 29.

HB0029_CardCoalitionUNF11725.pdf
Uploaded by: Frank Salinger
Position: UNF

Statement in Opposition to HB 29 Relating To Interchange Fees

January 21, 2025

Dear Chair Wilson, Vice Chair Crosby, and Members of the Economic Matters Committee:

The following Statement is filed on behalf of the Card Coalition, the national trade association representing the payment card industry.[1] We thank Chair Wilson and Vice Chair Crosby for the opportunity to share our views on the impact HB 29 would have on payment card processing, consumers, and our retail partners in Maryland. As drafted, HB 29 prohibits the collection of interchange on the sales tax and gratuity portion of electronic transactions. We urge you to oppose this bill.

In recent years, several states have considered legislation exempting sales and use taxes from interchange fee calculations. After considering the issue—with the exception of Illinois—all other states chose to reject these ill-conceived proposals.[2]

In 2024, Illinois enacted IL HB 4951, "the Illinois Interchange Prohibition Act," now mired in litigation. The new law was challenged by a diverse group of bank and credit union associations with the support of the Office of the Comptroller of the Currency (the federal regulator of national banks), which filed an *Amicus* brief in support of the plaintiffs.

On December 20, 2024, a U.S. District Court ruling paused the implementation of the Illinois law for national banks and federal savings associations. On December 20, 2024, the Court determined that national banks and federal savings associations are legally exempt from the Act. The Court ordered additional briefs to determine whether federal credit unions and state chartered banks are also exempt.

---

[1] The Card Coalition identifies, tracks and responds to state legislative and regulatory activities relating to the payment card industry to assist public officials in crafting sound policy on matters impacting payment card operations, consumer protection and other issues of concern. We are the only national organization devoted solely to the payment card industry and related legislative and regulatory activities in all 50 states. For more information, please visit www.cardcoalition.org.

[2] When a merchant accepts a card for payment, they pay a "merchant discount fee," typically 2 – 2.5% of the transaction amount. One component, the "interchange fee," is simply that portion of this fee received by the bank or credit union that issued the customer's card. These fees typically average 1.75% of payment card transactions. Merchants pay this to access the global electronic payments network and gain opportunities for increased revenue and guaranteed payment provided by payment card acceptance.

Card Coalition P.O. Box 802 Occoquan, VA 22125-0802 ☏ 703.910.5280

Following Illinois by enacting HB 29 could result in a two-tiered system where card issuers chartered in Maryland will be subject to the bill while their out-of-state national bank competitors are unscathed.

As in Illinois, those remaining subject to HB 29 will face a daunting task. While some proponents argue compliance would simply require "a few lines of code," the necessary infrastructure to exempt sales and use taxes from interchange fee calculation does not exist and would have to be created at a high cost to merchants, processors, networks, and financial institutions alike. The high cost would disproportionally fall on small merchants.

Electronic Payment Process in a Nutshell.

To more fully understand the bill's implications, it is essential to know the behind-the-scenes steps in a typical three-party payment card transaction. When a consumer proffers a payment card at a retailer to make a purchase, the transaction follows a specific transaction flow.

Upon the card tap or swipe at the point-of-sale terminal, the data will be accessed by the merchant's third-party payments processor, routed by the processor to the payment network (such as Visa, MasterCard, STAR, *etc*.), and to the financial institution that issued the consumer's card (the card-issuing financial institution). This initial step in the payment process is called authorization. If the authorization request meets the card issuer's requirements, a reply is returned to the merchant indicating that the request has been approved. If the authorization request does not meet the card issuer's requirements, the merchant is informed that the requested transaction has been denied.

If the transaction is approved, the next step is "clearing." In this phase, the payments processor obtains basic transaction data from the merchant, such as the amount, date, and merchant ID number, and sends the information to the card issuer.

The final step is the "settlement" process, in which funds are received in aggregate from the card issuer for all approved transactions occurring at merchants that received that card issuer's cards for payments. Funds are then transmitted to the merchant to reimburse the merchant for the goods or services purchased.

Operational Challenges Excluding Sales Tax.

Compliance with HB 29 would require payment processors to identify the taxable amount for each debit or credit card transaction and then exclude the sales tax. While sounding simple, in reality, this would require the wholesale creation of a payment regime unique to Maryland.

Payment processors and payment networks send and receive authorization messages as single units of code, typically routing only the card number and the total transaction amount (basically, only the necessary information required to authorize the transaction). Because neither payment processors nor payment networks see details about the goods purchased, they cannot identify the appropriate sales tax that should be applied to the transaction.

To elaborate, when a customer purchases a product or service at the point-of-sale, the merchant's cash register software scans the purchased items and computes the local and state sales taxes that are applicable. If the customer elects to use a payment card for the purchase, the total sales amount is sent from the cash register system to a separate point-of-sale device, known as the point-of-sale terminal, which accepts the payment card.

Payment processors and payment networks only transmit the data received from the point-of-sale terminal, *i.e.*, the total transaction amount and select data obtained from an embedded chip or the magnetic stripe on the back of the payment card that is swiped. Neither processors nor networks delineate between goods and services purchased at the point-of-sale.

To process thousands of payments per second quickly, safely, and efficiently, it is critical to capture only the absolute minimum amount of data necessary to authorize, clear, and settle the transaction. For example, if the transaction was completed at a grocery store, the dollar amount that would be routed from the point-of-sale terminal through the payments chain would not indicate food items versus cosmetics, nor any individual purchased item, nor the amount of a sales tax. Payment processors and payment networks only see an aggregate number for the total amount of the transaction.

To accomplish the intent of HB 29, significant programming changes would be required by merchants, processors, payment networks, and card issuers. Changes would be necessitated to capture data at the point-of-sale regarding the sale itself, including the detail of the item(s) purchased, prices, coupons applied, terms of delivery, purchaser's tax status, *etc.*, to apply sales tax and report and remit accurately.

The enormity of these programming changes is further underscored by the fact that all of the systems linked in the payments chain must be interoperable. Thus, changes must be coded, implemented and tested at retailers' point-of-sale terminals, payment processors, payment networks and the card issuing financial institutions.

Changing the entire payment ecosystem will impact consumers and merchants alike.

Many retailers—especially small businesses—will need to purchase or lease new point-of-sale terminals. Along with the damage to small merchants, changing the payment system to accommodate one state will place a disproportionate burden on small banks and credit unions, which suffer most from increased compliance costs when new regulatory requirements are imposed.

Additionally, a financial institution would bear the credit risk for the entire transaction, including the tax portion. At the same time, merchants at the point-of-sale will need specialized terminals and software to itemize and communicate segmented data, or consumers could face paying two separate transactions per sale—one for the product or service and another for the tax portion—thereby slowing checkout.

Payment card networks are highly specialized and operate under national processing rules to facilitate almost instantaneous acceptance. These are based on universal acceptance, guarantee, and payment settlement, regardless of transaction type. To change this for solely one state and establishing a precedent of designating that certain types of payments must be handled uniquely will increase costs to the financial institution and consumer and has the potential to extend to other types of transactions beyond sales tax.

*

For those reasons, we urge you to oppose HB 29. Thank you for the opportunity to present our views.

Sincerely,

Toni A. Bellissimo
Executive Director

House Bill 29 - VAAACO - Oppose_.pdf
Uploaded by: Kristen Pironis
Position: UNF

– Visit –
ANNAPOLIS
& ANNE ARUNDEL COUNTY

January 17, 2025

The Honorable C.T. Wilson, Chair
House Economic Matters Committee

Re: House Bill 29 - Electronic Payment Transactions - Interchange Fees - Calculation and Use of Data

Position: ***Oppose***

Dear Chair Wilson and Vice Chair Crosby,

On behalf of Visit Annapolis and Anne Arundel County, I am writing to express our ***opposition*** to House Bill 29. Annapolis and Anne Arundel County is one of Maryland's most popular tourist destinations, and the success of our tourism industry is directly tied to the convenience and efficiency of the electronic payment systems that visitors and residents rely on every day. We strongly believe that the provisions outlined in House Bill 29 that require a separation of nearly every electronic payment transaction into multiple parts could negatively affect not only the tourism sector but also the broader economy.

According to Tourism Economics, in 2023 more than 6.8 million people visited Annapolis and Anne Arundel County, generating $4.1 billion into the tourism economy and producing a significant economic impact for our local businesses, including hotels, restaurants, shops, and attractions. The majority of these visitors use credit cards for their travel-related purchases, including booking accommodations, dining, and enjoying local experiences. These transactions help support local jobs and contribute directly to the economic vitality of our community.

The credit card reward programs, such as airline miles and travel points, are an important incentive for consumers to visit our area. For many, these rewards make travel more affordable and convenient, and, as a result, they drive visitor spending here in Anne Arundel County and the surrounding areas. In fact, the loyalty programs tied to credit cards and travel-related purchases encourage repeat visits and help bring in new visitors, all of which is critical to the continued growth of our tourism sector.

Requiring the separation of electronic payment transactions into multiple parts, as proposed in HB 29, introduces unnecessary complexity and risk. These changes could disrupt the smooth operation of our existing payment systems, potentially deterring visitors from using their credit cards as they normally would. For all these reasons, we respectfully request an ***unfavorable*** report and thank you for your dedicated support to the tourism industry.

Kind Regards,

Kristen Pironis
Executive Director

[MD] HB 29_TechNet written_interchange fees.pdf

Uploaded by: margaret durkin

Position: UNF

TechNet Mid-Atlantic | Telephone 717.585.8622
www.technet.org | @TechNetMidAtla1

January 17, 2025

The Honorable C.T. Wilson
Chair
House Economic Matters Committee
Maryland House of Delegates
Taylor House Office Building, Room 231
6 Bladen Street, Annapolis, MD 21401

RE: HB 29 (T. Morgan/Crosby) - Electronic Payment Transactions - Interchange Fees - Calculation and Use of Data - Oppose

Dear Chair Wilson and Members of the Committee,

On behalf of TechNet, I'm writing to provide remarks on HB 29 related to interchange fees.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.5 million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance. TechNet has offices in Austin, Boston, Chicago, Denver, Harrisburg, Olympia, Sacramento, Silicon Valley, Tallahassee, and Washington, D.C.

TechNet promotes the banking and financial technology sectors by removing regulatory barriers to financial access and literacy, economic growth, and job creation. We support innovation in the banking and fintech sectors by encouraging state policymakers to ensure the regulatory system remains technology neutral and regulates new technologies, including digital currencies and alternative banking, using a balanced approach that encourages fair competition. We note in today's remarks that some of our members have different perspectives on interchange fees; the comments in this letter are based on concerns we've been made aware of.

The existing interchange system for credit card usage provides a safe and reliable method for conveniently transacting business. TechNet is concerned that HB 29 as drafted has the potential to disrupt the retail shopping experience in the state. HB 29 seeks to remove interchange fees from the sales tax portion of a transaction without considering the long-term cost, inefficiencies, and frustration its implementation would create.

There are many reasons why HB 29 is impractical and costly to businesses. First, systems don't support it. When a retailer makes a sale using a customer's electronic payment card, the systems that process the transaction recognize only the final purchase amount. U.S. infrastructure does not support a system where multiple amounts (taxes) can be excluded from the interchange fee, such as local sales taxes that vary. Because these systems don't currently exist, the prohibitions required in this bill would be cost prohibitive for businesses, large and small. Businesses will need specialized terminals and software to itemize and communicate segmented data to the card networks at the time of sale. Ultimately, the costs of a new system could fall onto the consumers in Maryland.

If the bill passes, there are two options for merchants to comply. The first one would be to require consumers to pay in two transactions – one for the sale of the underlying product or service, and another for the tax portion of the sale. Customers would pay for their goods with their preferred payment method. Then the customer would pay sales tax via cash or check. Cash or check would be required as there is no unified system to implement these suggested changes. This would drastically change the consumer experience, and the amount of sales tax consumers pay every time they are out shopping will suddenly be under a microscope.

A second option is that merchants will have to send payment companies every detail of a person's shopping habits. The global payment system is designed so that payment networks need very little of a consumer's personal information to process a payment. Interchange legislation could fundamentally change that, requiring the tracking of every detail of a person's shopping habits: where people shop, exactly what they buy, how often they buy it, and how much they spend, as examples.

Today, the only information transmitted from merchants to payment companies is how a customer is paying and the total amount of the transaction. Under this mandate, to calculate and refund sales tax expenses, which differ by county, city, and item, merchants would also need to send payment companies the name of the store, the exact location of the store, and exact items purchased. This option is in direct conflict with data minimization standards, or the collection of only necessary information that is used to complete a transaction safely and accurately.

Because this mandate is not currently active in any other jurisdiction, there will be confusion and compliance difficulties for those out-of-state businesses operating in Maryland. For online transactions, compliance will be even more difficult. How would one pay with cash for the sales tax portion on an online order?

TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

The liability suggested in this bill would severely impact our member companies. As an example, one member processes 28 thousand transactions per second. The liability, even for mistakes, would be untenable for businesses. Several bills have been introduced on this issue and none have been enacted into law due to the compliance challenges and cost, with the exception of Illinois HB 4951. As part of a last-minute budget deal, the Illinois General Assembly passed this measure as part of an omnibus proposal. The measure is currently being challenged in court. The Commonwealth of Massachusetts proposed a similar bill in 2017 and studies showed that one-time, non-recurring costs would total $1.2 billion, and $28 million in annual recurring costs.

HB 29 will lead to cost increases for businesses and consumers and create compliance hurdles that will be difficult to overcome. Speed and efficiency of sales are critical to merchants and consumers. Legislation that would double the time it takes at the checkout counter, given the challenges with handling cash, will only slow down businesses, add operational costs, and frustrate consumers every time they make a purchase. For the above stated reasons, TechNet is opposed to HB 29. Thank you for your consideration of our concerns and we look forward to continuing these discussions with you.

Sincerely,

Margaret Durkin

Margaret Durkin
TechNet Executive Director, Pennsylvania & the Mid-Atlantic

HB0029 - MTC Testimony.pdf
Uploaded by: Matt Libber
Position: UNF

MARYLAND TOURISM COALITION

January 17, 2024

The Honorable Delegate C.T. Wilson, Chair
Economic Matters Committee
230 Taylor House Office Building
Annapolis, MD 21401

RE: HB50 - Electronic Payment Transactions - Interchange Fees - Calculation and Use of Data

Position: Oppose

Chairman Wilson,

My name is Matt Libber, and I am the Legislative Committee Chair for the Maryland Tourism Coalition (MTC). On behalf of the members of MTC I am writing to express our ***opposition*** to House Bill 29. Tourism is a major part of the Maryland Economy with visitors spending $20.5 Billion in 2023. The success of our tourism industry is directly tied to the convenience and efficiency of the electronic payment systems that visitors and residents rely on every day. We strongly believe that the provisions outlined in House Bill 29 that require a separation of nearly every electronic payment transaction into multiple parts could negatively affect not only the tourism sector, but also the broader economy.

In 2023, over 45.1 million people visited Maryland's 24 jurisdictions, generating significant economic impact for our local businesses, including hotels, restaurants, shops, and attractions. The majority of these visitors use credit cards for their travel-related purchases, including booking accommodations, dining, and enjoying local experiences. These transactions help support the 190,660 local tourism jobs and contribute directly to the economic vitality of our community.

The credit card reward programs, such as airline miles and travel points, are an important incentive for consumers to visit our area. For many, these rewards make travel more affordable and convenient, and, as a result, they drive visitor spending here in Maryland. In fact, the loyalty programs tied to credit cards and travel-related purchases encourage repeat visits and help bring in new visitors, all of which is critical to the continued growth of our tourism sector.

Requiring the separation of electronic payment transactions into multiple parts, as proposed in HB 29, introduces unnecessary complexity and risk. These changes could disrupt the smooth operation of our existing payment systems, potentially deterring visitors from using their credit cards as they normally would. This bill would require our businesses to operate under separate rules from other jurisdictions and would set us apart, in a negative context, from the neighboring states for which we compete for visitors and their dollars. For all these reasons, we respectfully request an ***unfavorable*** report and thank you for your dedicated support to the tourism industry.

Respectfully submitted,

Matt Libber
Legislative Chair
Maryland Tourism Coalition
mlibber@mdsoccerplex.org
301-528-1480

House Bill 29 - M.D.M.O. - Oppose.pdf
Uploaded by: Michael Mason
Position: UNF

MARYLAND
Destination Marketing Organizations

January 17, 2025

The Honorable C.T. Wilson, Chair
House Economic Matters Committee

Re: House Bill 29 - Electronic Payment Transactions - Interchange Fees - Calculation and Use of Data

Position: ***Oppose***

Chair Wilson and Vice Chair Crosby:

On behalf of the Maryland Association of Destination Marketing Organizations (MDMO), I am writing to express our ***opposition*** to **House Bill 29 - Electronic Payment Transactions - Interchange Fees - Calculation and Use of Data**. Currently, retailers and merchants are assessed a 1-2% fee on electronic payment transactions. This fee is reinvested by payment networks and card-issuing banks to facilitate improvements in security and provide rewards programs for consumers. House Bill 29 would remove gratuity and tax from the amount on which the fee is assessed and would require the issuer to credit a merchant the amount of interchange fees assessed on the tax and gratuity of a given transaction. In effect, each transaction would be broken into multiple parts, and benefits such as rewards points and airline miles could be significantly reduced.

Tourism is an economic ecosystem, delivering opportunity and quality of life for Marylanders that is derived from visitor spending. The travel sector is an integral part of Maryland's economy that contributes more than **$2 billion** in state and local tax revenues a year. Benefits such as travel rewards points and airline miles play a key role in supporting our industry by making trips more affordable and enticing consumers to travel more frequently. Under this bill, merchants would have no obligation to use the funds credited to them on the rewards programs currently financed by issuers from interchange fees. As a result, most will not. The reduction in rewards available to consumers would result in a material and substantial decrease in revenue to the State and the businesses that rely on tourism.

Additionally, requiring two separate payments on each transaction is cumbersome, and threatens to cause to spend less while they're here. A reduction in total transactions resulting from a decrease in the ease of payment for consumers would further undermine business and the greater economic wellbeing of the State.

The current structure of interchange fees enables benefits that make traveling to Maryland more affordable for consumers and makes electronic transactions safe, quick, and easy. The changes proposed would throttle a key sector of our economy. We respectfully urge an ***unfavorable*** report on House Bill 29 and appreciate your support of the tourism industry.

Sincerely,

Cassandra M. Vanhooser

Cassandra M. Vanhooser
Chairman

Testimony of Patrick Dwyer,
VP, Head of State Government Affairs Mastercard
Before the Maryland House Economic Matters Committee

January 21, 2025

Background

Mastercard operates a global payment card network that processes credit, debit and prepaid card transactions initiated by cardholders to purchase goods and services from Mastercard-accepting merchants. Mastercard contracts with banks that issue Mastercard-branded credit, debit or prepaid cards to consumers, businesses and others ("issuers") and with financial institutions that contract with merchants to accept Mastercard-branded payment cards ("acquirers"). In the Mastercard network, Mastercard sets default interchange rates to maximize the value that merchants receive when they accept Mastercard-branded cards while adequately compensating card issuers for the value they create and the risks they take. Interchange enables the card payment system and thus creates tremendous value for merchants.

House Bill 29 (the "Bill") broadly prohibits the charging of interchange fees on the tax and gratuity portion of any electronic payment transaction (the "Interchange Prohibition"), §§ (B)(1)-(2), and establishes an obligation for refunding the portion of interchange fees applied to tax and gratuity (the "Interchange Rebate"). §§ (B)(3)(I)-(II).

Harm Created by the Bill

Issuers earn interchange on payment card transactions at Maryland merchants by virtue of the costs and risks they incur for the benefit of such Maryland merchants. The Bill would undermine the fundamental fairness of the interchange structure and ultimately disincentivize the issuance of payment cards or increase the fees that issuers charge for payment card services. If there are concerns about merchants deducting interchange fees from employee gratuities, upending the entire electronic payment system is not the way to resolve it. This will cause merchants to weigh the value and cost of payment card transactions and decide whether to allow customers to include gratuities as part of a payment card transaction. Also, with respect to taxes, payment cards provide an enormous benefit to Maryland in the form of tax collection on the sale of goods and services and it would be unfair to deny issuers interchange on this portion of an electronic payment transaction. If merchants view the cost of receiving tax amounts in the form of payment card transactions as outweighing the benefits of this incredible convenience to them, then merchants can collect taxes from customers in cash. These solutions to the gratuity and tax issues clearly are fairer than the Interchange Prohibition because they match costs to benefits, so that the party that gets a benefit bears the cost of the benefit.

The Bill is likely to have unintended adverse consequences for Maryland employees, merchants and the State. For example, requiring issuers to go uncompensated by merchants for gratuity and tax portions of a payment card transaction could result in separate payment card transactions being required for gratuities and taxes or payment cards could be an unavailable payment method for such amounts. Either of these unintended consequences would inconvenience merchants and consumers, likely result in lower gratuities, likely result in lower tax collections and generally make Maryland a less favorable shopping environment for consumers to the ultimate detriment of Maryland merchants and State tax revenues. Also, we expect that merchants would incur material technology costs to avail themselves of the Interchange Prohibition and that these costs will be passed on to customers. We believe that these harms to consumers and other payment network participants more than outweigh the purported benefits to Maryland merchants.

Impediments to Implementation of the Bill for Network Operators

Mastercard's payment card network does not differentiate between the tax and gratuity amounts and other amounts that make up the whole amount of the transaction. When Mastercard processes a payment transaction, it only receives a single transaction amount from the acquirer. Interchange applies to this undivided amount. To comply with the Interchange Prohibition, Mastercard would have to incur significant costs to parse out and exclude tax and gratuity from the total transaction amount for transactions at Maryland merchants and also adopt new technical standards and rules for transmission of transaction data across its network. These will need to be adopted by acquirers and merchants at their cost. Moreover, to ensure uniformity and interoperability of the card acceptance process for Maryland merchants, Mastercard would need to agree with other U.S. and non-U.S. networks the technical standards and rules to be used by Mastercard. This process will be expensive and complex and ultimately have adverse consequences for Marylanders.

The Interchange Rebate provision contemplates that Maryland merchants may claim a rebate on interchange by merely delivering tax and gratuity documentation. The Bill creates an extraordinary operational problem. The acquirers will receive the tax documentation, but will not owe the rebate. The issuers will owe the rebate, but will not receive the tax documentation. As a practical matter, because Mastercard is the only intermediary, it will likely be called upon to stand in the gap to facilitate the Interchange Rebate. How it will do this is not clear, but it is a certainty that the expense of converting piles of unstandardized tax documents of various types into interchange rebates would be colossal.

Conclusion

If passed, the Bill would unfairly allow Maryland merchants to reap the benefits of accepting payment cards for gratuities and taxes while shifting the cost of those benefits to issuers, the network and other payment network participants. We strongly urge the Maryland House not to pass the Bill.

Sincerely,

Patrick Dwyer
VP, Head of State Government Affairs Mastercard

2025-01-16 MD HB0029.letter in oppositionpdf.pdf

Uploaded by: Richard Hunt

Position: UNF

Electronic Payments Coalition

January 16, 2025

Re: **Statement in Opposition to H.B. 29**

Dear Chair Wilson, Vice Chair Crosby, and members of the Maryland House of Representatives Economic Matters Committee:

We write to oppose H.B. 29, which prohibits the collection of interchange on the sales tax and gratuity portion of electronic transactions.[1] The bill harms Maryland consumers and small businesses, benefits mega-retailers, and could reduce Maryland's sales tax revenue.

This fundamentally flawed legislation attempts to do what has never been done. Similar proposals to prohibit the collection of interchange on the sales tax (and gratuity) portions of electronic transactions were considered and rejected in nearly 30 states over the past 15 years. In 2024, Illinois incorporated the language into its state budget, resulting in a federal lawsuit. The U.S. Office of the Comptroller of the Currency characterized Illinois' law as an "ill conceived, highly unusual, and largely unworkable state law that threatens to fragment and disrupt this efficient and effective system," while also weakening financial institutions' abilities to "prevent fraud, manage risk, and provide critical services to consumers."

On December 20, 2024, Chief Judge Virginia M. Kendall of the United States District Court for the Northern District of Illinois <u>issued a Preliminary Injunction of the Illinois Interchange Fee Protection Act</u>, due to conflicts with the National Bank Act (NBA) and Homeowners Credit Loan Act (HOLA). The decision states that the banking industry is likely to prevail on its claim of federal preemption.

We strongly believe there is no reason for Maryland or any other state to take up this bill while it is being litigated in Federal Court.

To provide vendors remuneration for the collection of state sales tax, nearly 30 states (Maryland included) offer a vendor collection discount.[2] In contrast to H.B. 29's proposal to upend the current well-functioning system, these states have chosen a workable policy that is more sound, practical, and fair to provide targeted a partial offset to retailer's costs of collecting and remitting state sales tax.

Despite retailer group false claims, <u>neither the software nor point-of-sale hardware exists to separate out sales tax or gratuity from the underlying cost of goods or services purchased on consumer debit and credit cards</u>. When a retailer makes a sale via electronic payment, the system that processes the transaction recognizes only the final purchase amount on which the merchant discount fee is based. The system does not transmit information regarding the product or services sold, or the amount of sales tax and tip collected.

If H.B. 29 is enacted, Maryland merchants would face one of two options:

1. At point of sale, collect sales tax as a separate transaction, essentially requiring *two*

---

[1] Interchange is a small fee (an average of 1.8%) paid by merchants on electronic credit transactions to cover handling costs, fraud and bad debt costs, the risk involved in approving the payment, and the operation of the payment network. Assuming such a rate with a 6% sales tax, the interchange fee on a $100 transaction amounts to only $0.108.)

[2] Avalara. "Vendor discounts for filing sales tax on time, a state-by-state guide." December 30, 2024.

transactions for *every* taxable sale. This would force consumers to pay the sales tax and gratuity portion via cash or check.

2. Merchants would have 180 days to send payment companies every detail of a person's shopping habits, creating an enormous consumer privacy issue. The current system is designed so that payment networks see very little of a consumer's personal information to process a payment. This bill would fundamentally change that, exposing consumers' private purchases through both intentional sharing – and worse – accidental exposure of sensitive consumer data through increasingly common data breaches.[3]

Should this bill pass, both merchants and consumers would be negatively impacted because, as noted above, merchants would need new, yet-to-be developed, specialized terminals and software to itemize and communicate segmented data to the card networks at the time of sale. This would especially hurt small businesses which do not have sufficient volume to offset the costs any new system would impose.

Retailer claims that interchange rates have increased over recent years are also false. According to Verisk Financial Research and the Nilson Report, the average U.S. credit interchange rate has remained steady (1.8%) dating back to at least 2016.[4] In the same period of time, merchants and retailers have seen their sales volumes rapidly increase, resulting in an increase in total *volume*.

Government should not interfere in a working, private market by disrupting private contracts between willing parties and picking winners and losers. The U.S. Department of Justice has conducted multiple exhaustive, multi-year reviews of the electronic payments system and concluded – retailer claims notwithstanding – that there was no anti-competitive behavior. Retailer legal arguments of similar claims have likewise been rejected by the U.S. Supreme Court no fewer than four times.

Finally, retailers completely ignore that interchange is deductible on federal and state taxes as a cost of doing business. The tax deductions are applicable to the entire interchange expense, including tax and gratuity.

If enacted, Maryland consumers and small merchants would bear the brunt of the consequences of a less efficient, less secure, less private payments system. Safety and security have never been more important. Continuing to invest in secure payments technology is critical toward ensuring the U.S. economy and our Maryland small business community are given the necessary resources they need to operate and thrive, especially during these particularly challenging times.

For the above stated reasons and more, we strongly encourage you to reject H.B.29.

Sincerely,

RICHARD HUNT
Executive Chairman

---

[3] Law360. "Wawa Data Breach Is Warning On Swipe Payment Tech Risks." September 19, 2022.
[4] Electronic Payments Coalition. "EPC Q4 2022 Data Dashboard." January 25, 2023.

2025_MDDCCUA_HB29 Testimony.pdf
Uploaded by: Rory Murray
Position: UNF

MD|DC
Credit Union Association
Engage · Influence · Impact

January 21, 2025

Chairman CT Wilson
Room 231
House Office Building
Annapolis, Maryland 21401

Bill – HB29 - Electronic Payment Transactions - Interchange Fees - Calculation and Use of Data
Organization – MD|DC Credit Union Association
Position - **Opposed**

Chairman Wilson, Vice-Chair Crosby, and Members of the Committee,

The MD|DC Credit Union Association, on behalf of the 70+ Credit Unions and their 1.9 million members that we represent in the State of Maryland, appreciates the opportunity to testify on this legislation. Credit Unions are member-owned, not-for-profit financial cooperatives that prioritize the financial well-being of their members. **We respectfully oppose this bill.**

Interchange Fees Are Critical to Payment Security and Efficiency
Excluding taxes and tips from interchange fees would introduce unnecessary complexity, raise privacy and fraud risks, and burden merchants with additional costs—all without providing meaningful benefits to consumers. The current system ensures that interchange fees support a secure, efficient, and reliable payment infrastructure that benefits all stakeholders.

Increased Complexity and Cost for Merchants
Excluding taxes and tips from interchange fees would significantly increase the complexity of payment processing. Merchants would need to invest in upgraded point-of-sale systems capable of separating and itemizing taxes and tips from the total transaction amount. Small businesses may struggle with the cost and operational challenges of implementing such changes.

Consumers Don't Benefit
Proponents of the bill claim that excluding taxes and tips from interchange fees would lead to savings for consumers, but there is little evidence to support this assertion. In fact, an examination of states without sales tax—such as New Hampshire, Oregon, and Delaware—shows that retail prices in these states remain comparable to those in states that impose sales tax. This strongly suggests that retailers are unlikely to pass any savings from the proposed exemption on to consumers.

Privacy Concerns for Consumers
To exclude taxes and tips from interchange fees, payment processors, financial institutions and potentially third parties would need detailed transaction-level data to verify the breakdown of purchases. Such access raises serious privacy concerns, as it could expose sensitive details about consumer purchases, habits, and preferences.

9891 Broken Land Parkway, Suite 405, Columbia, MD 21046 | P 800-492-4206 F 410-290-7832 E info@mddccua.org | mddccu.org

Reduced Revenue for Fraud Prevention and Security
Interchange fees fund critical infrastructure, including fraud detection, cybersecurity, and secure payment systems. Excluding taxes and tips would reduce the revenue that financial institutions and payment networks rely on to maintain and enhance these protections. This could increase the risk of fraud and data breaches, ultimately harming consumers and businesses alike.

No Compelling Public Interest
The bill lacks a compelling state interest to justify such a significant change to the payment system. Over the past two decades, 31 other states have considered similar legislation, all of which failed to gain traction. The only instance where such a measure has passed—in Illinois, through a budget amendment—has been met with a federal lawsuit challenging its legality.

Even the Office of the Comptroller of the Currency (OCC) has filed an amicus brief opposing the Illinois law, describing it as "ill-conceived, highly unusual, and largely unworkable." The OCC further cautioned that allowing the law to stand could "significantly increase fraud risk, constrain consumers, and erode public trust." Moreover, the OCC warned that if other states adopted similar measures, it would result in "a fractured, highly inefficient, and unworkable payment system that would materially affect interstate commerce."

Interchange fees are a small percentage of the transaction total, and their structure has been effective in supporting the secure and efficient functioning of the payments ecosystem. Excluding taxes and tips disrupts this balance without delivering measurable public benefits.

Negligible Benefits for Small Businesses
The proposed legislation offers negligible benefits for small businesses. Consider a typical Maryland small business with $1 million in annual taxable sales:

- **Annual sales tax collected:** $60,000
- **Percentage of credit and debit card transactions:** 66% of total sales
- **Interchange fees on sales tax:** $1,800 per year
- **Monthly "savings" from the exemption:** $150
- **Added admistrative costs:** Unknown

These marginal savings fail to justify the significant disruptions that small businesses would face. In stark contrast, large retailers such as Home Depot could save an estimated $1.89 million annually in Maryland. This disparity underscores that the primary beneficiaries of this bill are not small businesses but large, big-box retailers.

Conclusion

We urge the committee to report this bill unfavorably. This legislation would impose undue costs and complexities on financial institutions, small businesses, and consumers, while disproportionately benefiting large retailers. We remain committed to fostering a secure, efficient, and inclusive financial system and look forward to working with stakeholders to achieve these goals.

Thank you for your consideration. I am happy to answer any questions the committee may have.
Respectfully submitted,

Sincerely,

John Bratsakis
President/CEO
MD|DC Credit Union Association

With the support of our State Chartered Credit Unions:

SECU
MECU
Point Breeze Credit Union
Destinations Credit Union
Central Credit Union
Post Office Credit Union

MD HB 29 - A4A Comments - UNF.pdf
Uploaded by: Sean Malone
Position: UNF

Airlines for America®

We Connect the World

January 16, 2025

The Honorable Adrienne Jones, Speaker of the House
The Honorable C. T. Wilson, Chair
The Honorable Brian M. Crosby, Vice Chair
House Economic Matters Committee
230 Taylor House Office Building
Annapolis, MD 21401

Dear Speaker Jones, Chair Wilson and Vice Chair Crosby:

Airlines for America (A4A)[1] is the principal trade and service organization of the U.S. airline industry. U.S. airlines employ thousands of people who live and work in Maryland, and we are proud of the investments we are making across the state. We also know that Maryland residents love to travel, and the miles that customers earn with their credit cards facilitate family vacations, visits to loved ones and weekend getaways. These rewards programs also bring thousands of visitors to Maryland and are a critical part of the tourism sector. In fact, close to 200,000 domestic passengers used miles from airline co-branded credit cards to visit the state of Maryland in 2023, driving $158 million in visitor spending and $9.5 million in state and local tax revenue. HB 29 introduces unnecessary risks to these important sources of value and economic contribution across the state's economy.

On behalf of A4A and our member carriers, we oppose any mention in the bill that would require a separation of nearly every electronic payment transaction into multiple parts. Further, we believe that it will require the creation of new customer purchase databases that would threaten customer privacy. These new requirements are being mandated on the electronic payment network, with no compensation.

These new requirements put consumer benefits such as airline miles, cash back and travel points at risk. Residents of Maryland enjoy their credit card benefits. These cards rely on a system that operates on standardization with mere milliseconds to process transactions. Customers and merchants benefit from a fast, safe and secure payment system that promotes customer choice and reliably speeds payments to sellers. We understand and appreciate that there are a number of significant challenges before the legislature, and we respectfully ask that the legislature leave undisturbed a system that works and with which consumers are happy.

We respectfully ask you to reject the proposal forcing electronic payments into multiple transactions.

Sincerely,

Sean Williams
Vice President, State & Local Government Affairs

[1] The members of the association are Alaska Airlines, Inc.; American Airlines Group, Inc.; Atlas Air, Inc.; Delta Air Lines, Inc.; Federal Express Corporation; Hawaiian Airlines; JetBlue; Southwest Airlines Co.; United Airlines Holdings, Inc.; and United Parcel Service Co. Air Canada is an associate member.

1275 Pennsylvania Ave, NW Suite 1300 Washington, DC 20004 T 202.626.4000 W airlines.org

2025 1_16_2025 MD HB 29 Interchange Fees A4A comme

Uploaded by: Sean Williams

Position: UNF

Airlines for America®

We Connect the World

January 16, 2025

The Honorable Adrienne Jones, Speaker of the House
The Honorable C. T. Wilson, Chair
The Honorable Brian M. Crosby, Vice Chair
House Economic Matters Committee
230 Taylor House Office Building
Annapolis, MD 21401

Dear Speaker Jones, Chair Wilson and Vice Chair Crosby:

Airlines for America (A4A)[1] is the principal trade and service organization of the U.S. airline industry. U.S. airlines employ thousands of people who live and work in Maryland, and we are proud of the investments we are making across the state. We also know that Maryland residents love to travel, and the miles that customers earn with their credit cards facilitate family vacations, visits to loved ones and weekend getaways. These rewards programs also bring thousands of visitors to Maryland and are a critical part of the tourism sector. In fact, close to 200,000 domestic passengers used miles from airline co-branded credit cards to visit the state of Maryland in 2023, driving $158 million in visitor spending and $9.5 million in state and local tax revenue. HB 29 introduces unnecessary risks to these important sources of value and economic contribution across the state's economy.

On behalf of A4A and our member carriers, we oppose any mention in the bill that would require a separation of nearly every electronic payment transaction into multiple parts. Further, we believe that it will require the creation of new customer purchase databases that would threaten customer privacy. These new requirements are being mandated on the electronic payment network, with no compensation.

These new requirements put consumer benefits such as airline miles, cash back and travel points at risk. Residents of Maryland enjoy their credit card benefits. These cards rely on a system that operates on standardization with mere milliseconds to process transactions. Customers and merchants benefit from a fast, safe and secure payment system that promotes customer choice and reliably speeds payments to sellers. We understand and appreciate that there are a number of significant challenges before the legislature, and we respectfully ask that the legislature leave undisturbed a system that works and with which consumers are happy.

We respectfully ask you to reject the proposal forcing electronic payments into multiple transactions.

Sincerely,

Sean Williams
Vice President, State & Local Government Affairs

[1] The members of the association are Alaska Airlines, Inc.; American Airlines Group, Inc.; Atlas Air, Inc.; Delta Air Lines, Inc.; Federal Express Corporation; Hawaiian Airlines; JetBlue; Southwest Airlines Co.; United Airlines Holdings, Inc.; and United Parcel Service Co. Air Canada is an associate member.

2025 MD Interchange Fact Sheet.pdf
Uploaded by: Steve Rauschenberger
Position: UNF

INTERCHANGE WORKS:

Stop Proposals to Change How Maryland Consumers do Business!

The electronic payment system makes transacting business fast, safe and secure.

OPPOSE HB 29

Exempting sales tax and gratuities from interchange is a monumental, unprecedented disruption to a system that works well.

- Similar bills have bene **considered and rejected** in 30 states over the past 17 years.
- In December 2024, a federal judge issued a Preliminary Injunction against a similar law in Illinois (the IFPA) due to conflicts with the National Bank Act and Homeowners Credit Loan Act. The court found the banking industry is "likely to prevail" on its claims of **federal preemption**. This means if Maryland passes a similar bill, it could apply only to state-chartered institutions and put them at a competitive disadvantage to national players.
- The **U.S. Office of the Comptroller of the Currency** characterized the IFPA as an "ill conceived, highly unusual, and largely unworkable state law that threatens to fragment and disrupt this efficient and effective system," while also weakening financial institutions' abilities to "prevent fraud, manage risk, and provide critical services to consumers."
- Current **systems do not have the capability** to identify and separate out the sales tax percentages and gratuities from the total transaction cost for the different sales tax jurisdictions in Maryland.
- Creating a payment system unique to Maryland would **take years** and increase the cost of operating an electronic payment point of sale terminal – a cost of doing business that retailers routinely pass along to consumers. The global payments system is not designed for state-by-state models.
- Research shows 93% of **consumers are happy with their credit and debit cards**. The proposed new requirements put at risk customer benefits such as airline miles, cash back, and travel points.
- **Don't put Maryland consumers at risk**. Consumers use cards because they are quick, convenient, and significantly reduce the opportunity for fraud as compared to cash or check transactions. These card benefits are all compromised with the proposed change to the card processing system – a change that would set Maryland apart from every other jurisdiction on the planet.
- Interchange is tax deductible at the federal and state levels and **Maryland already permits retailers to keep a portion** of sales tax collected to help offset remittance costs.

There is NO benefit to the state or to consumers in removing sales tax and gratuity from the interchange fee calculation. Only nationwide mega-corporations stand to benefit. It is unclear how much the technological development and implementation cost, who would pay for infrastructure overhaul, and how long it would take.

Before any new requirement is mandated, careful consideration must be given to the enormous investment to develop and implement a novel technological infrastructure for Maryland that will justify the additional costs for retailers, consumers, and card issuers. What *is* certain is that Maryland consumers will ultimately pick up the tab, as businesses seek to recoup the massive costs of research, development, and implementation.

Keep card transactions safe and convenient and <u>oppose HB 29</u>!

Steve Rauschenberger | 422 N Worth Ave, Elgin, IL | 847-922-9480

MBA
MARYLAND BANKERS ASSOCIATION

MD|DC
Credit Union Association

AFSA
AMERICAN FINANCIAL SERVICES ASSOCIATION

AMERICAN EXPRESS

AMERICAN TRANSACTION PROCESSORS COALITION
atpc

BANK OF AMERICA

Capital One

CardCoalition

citi

DISCOVER

EPC
Electronic Payments Coalition

eta

JPMorganChase

VISA

WELLS FARGO

2025-01-16 MD HB 29 EPC UNF.pdf
Uploaded by: Steve Rauschenberger
Position: UNF

Electronic Payments Coalition

January 16, 2025

Re: **Statement in Opposition to H.B. 29**

Dear Chair Wilson, Vice Chair Crosby, and members of the Maryland House of Representatives Economic Matters Committee:

We write to oppose H.B. 29, which prohibits the collection of interchange on the sales tax and gratuity portion of electronic transactions.[1] The bill harms Maryland consumers and small businesses, benefits mega-retailers, and could reduce Maryland's sales tax revenue.

This fundamentally flawed legislation attempts to do what has never been done. Similar proposals to prohibit the collection of interchange on the sales tax (and gratuity) portions of electronic transactions were considered and rejected in nearly 30 states over the past 15 years. In 2024, Illinois incorporated the language into its state budget, resulting in a federal lawsuit. The U.S. Office of the Comptroller of the Currency characterized Illinois' law as an "ill conceived, highly unusual, and largely unworkable state law that threatens to fragment and disrupt this efficient and effective system," while also weakening financial institutions' abilities to "prevent fraud, manage risk, and provide critical services to consumers."

On December 20, 2024, Chief Judge Virginia M. Kendall of the United States District Court for the Northern District of Illinois issued a Preliminary Injunction of the Illinois Interchange Fee Protection Act, due to conflicts with the National Bank Act (NBA) and Homeowners Credit Loan Act (HOLA). The decision states that the banking industry is likely to prevail on its claim of federal preemption.

We strongly believe there is no reason for Maryland or any other state to take up this bill while it is being litigated in Federal Court.

To provide vendors remuneration for the collection of state sales tax, nearly 30 states (Maryland included) offer a vendor collection discount.[2] In contrast to H.B. 29's proposal to upend the current well-functioning system, these states have chosen a workable policy that is more sound, practical, and fair to provide targeted a partial offset to retailer's costs of collecting and remitting state sales tax.

Despite retailer group false claims, neither the software nor point-of-sale hardware exists to separate out sales tax or gratuity from the underlying cost of goods or services purchased on consumer debit and credit cards. When a retailer makes a sale via electronic payment, the system that processes the transaction recognizes only the final purchase amount on which the merchant discount fee is based. The system does not transmit information regarding the product or services sold, or the amount of sales tax and tip collected.

If H.B. 29 is enacted, Maryland merchants would face one of two options:

1. At point of sale, collect sales tax as a separate transaction, essentially requiring *two*

---

[1] Interchange is a small fee (an average of 1.8%) paid by merchants on electronic credit transactions to cover handling costs, fraud and bad debt costs, the risk involved in approving the payment, and the operation of the payment network. Assuming such a rate with a 6% sales tax, the interchange fee on a $100 transaction amounts to only $0.108.)

[2] Avalara. "Vendor discounts for filing sales tax on time, a state-by-state guide." December 30, 2024.

transactions for *every* taxable sale. This would force consumers to pay the sales tax and gratuity portion via cash or check.

2. Merchants would have 180 days to send payment companies every detail of a person's shopping habits, creating an enormous consumer privacy issue. The current system is designed so that payment networks see very little of a consumer's personal information to process a payment. This bill would fundamentally change that, exposing consumers' private purchases through both intentional sharing – and worse – accidental exposure of sensitive consumer data through increasingly common data breaches.[3]

Should this bill pass, both merchants and consumers would be negatively impacted because, as noted above, merchants would need new, yet-to-be developed, specialized terminals and software to itemize and communicate segmented data to the card networks at the time of sale. This would especially hurt small businesses which do not have sufficient volume to offset the costs any new system would impose.

Retailer claims that interchange rates have increased over recent years are also false. According to Verisk Financial Research and the Nilson Report, the average U.S. credit interchange rate has remained steady (1.8%) dating back to at least 2016.[4] In the same period of time, merchants and retailers have seen their sales volumes rapidly increase, resulting in an increase in total *volume*.

Government should not interfere in a working, private market by disrupting private contracts between willing parties and picking winners and losers. The U.S. Department of Justice has conducted multiple exhaustive, multi-year reviews of the electronic payments system and concluded – retailer claims notwithstanding – that there was no anti-competitive behavior. Retailer legal arguments of similar claims have likewise been rejected by the U.S. Supreme Court no fewer than four times.

Finally, retailers completely ignore that interchange is deductible on federal and state taxes as a cost of doing business. The tax deductions are applicable to the entire interchange expense, including tax and gratuity.

If enacted, Maryland consumers and small merchants would bear the brunt of the consequences of a less efficient, less secure, less private payments system. Safety and security have never been more important. Continuing to invest in secure payments technology is critical toward ensuring the U.S. economy and our Maryland small business community are given the necessary resources they need to operate and thrive, especially during these particularly challenging times.

For the above stated reasons and more, we strongly encourage you to reject H.B.29.

Sincerely,

RICHARD HUNT
Executive Chairman

[3] Law360. "Wawa Data Breach Is Warning On Swipe Payment Tech Risks." September 19, 2022.
[4] Electronic Payments Coalition. "EPC Q4 2022 Data Dashboard." January 25, 2023.