

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 559

Introduced by Schumacher, 22.

Read first time January 18, 2017

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to electronic payment transactions; to
2 prohibit the collection of interchange fees on specified taxes and
3 fees; and to provide penalties.
4 Be it enacted by the people of the State of Nebraska,

1 Section 1. For purposes of sections 1 to 7 of this act:

2 (1) Electronic payment transaction means a transaction in which a
3 person uses a debit card, credit card, or other payment code or device,
4 issued or approved through a payment card network, to debit an asset
5 account or use a line of credit, whether authorization is based on
6 signature, personal identification number, or other means;

7 (2) Interchange fee means any fee established, charged, or received
8 by a payment card network for the purpose of compensating the issuer for
9 its involvement in an electronic payment transaction;

10 (3) Issuer means any person who issues a debit card or credit card
11 or the issuer's agent;

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

19 (5) Settlement means the transfer of funds from a customer's account
20 to a seller or merchant upon electronic submission of finalized sales
21 transactions to the payment card network.

22 Sec. 2. The amount of any tax or fee imposed by state or local
23 government that is calculated as a percentage of an electronic payment
24 transaction amount and listed separately on the payment invoice or other
25 demand for payment or the amount of any motor fuel taxes shall be
26 excluded from the amount of an interchange fee charged for that
27 electronic payment transaction.

28 Sec. 3. It shall be unlawful to alter or manipulate the computation
29 and imposition of interchange fees by increasing the rate or amount of
30 fee applicable to or imposed upon that portion of an electronic payment
31 transaction not attributable to a state or local tax or fee to circumvent

1 the effect of section 2 of this act.

2 Sec. 4. A payment card network shall either deduct the amount of
3 any tax or fee imposed as described in section 2 of this act from the
4 calculation of interchange fees specific to each form or type of
5 electronic payment transaction at the time of settlement or rebate an
6 amount of interchange fee proportionate to the amount attributable to the
7 tax or fee. The deduction or rebate shall occur at the time of settlement
8 when the merchant or seller is able to capture and transmit tax or fee
9 amounts relevant to the sale at the time of sale as part of the
10 transaction finalization. If the merchant or seller is unable to capture
11 and transmit tax or fee amounts relevant to the sale at the time of sale,
12 the payment card network shall accept proof of tax or fee amounts
13 collected on sales subject to an interchange fee upon the submission of
14 sales data by the seller or merchant and shall promptly credit the
15 merchant or seller's settlement account.

16 Sec. 5. (1) Sections 1 to 7 of this act are subject to the power
17 and authority of the Attorney General.

18 (2) If a court finds in an action brought by the Attorney General
19 that a person has intentionally violated such sections, the person shall
20 be subject to a civil penalty of not less than one thousand dollars nor
21 more than five thousand dollars for each violation. In addition, a person
22 paying interchange fees imposed in violation of sections 1 to 7 of this
23 act may bring an action at law to recover actual damages. The court may
24 order such equitable relief as it deems necessary, including temporary
25 and permanent injunctive relief.

26 Sec. 6. If sections 1 to 7 of this act or their application are
27 held to be invalid with regard to a federally chartered bank or other
28 financial institution, such sections or their application it shall be
29 held equally invalid with regard to a financial institution licensed by
30 or operating within this state, and to this end sections 1 to 7 of this
31 act are not severable.

1 Sec. 7. Sections 1 to 6 of this act are applicable to electronic
2 payment transactions processed on or after October 1, 2017.