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No. 1544

H.P. 1149

House of Representatives, April 22, 2021

An Act Regarding Credit and Debit Card Merchant Fees

Received by the Clerk of the House on April 20, 2021. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative SACHS of Freeport.
Cosponsored by Senator CHIPMAN of Cumberland and
Representatives: ARFORD of Brunswick, CARMICHAEL of Greenbush, ROEDER of
Bangor, TERRY of Gorham, Senator: POULIOT of Kennebec.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 10 MRSA c. 202-F** is enacted to read:

3 **CHAPTER 202-F**

4 **ELECTRONIC PAYMENT TRANSACTIONS**

5 **§1160-B. Taxes and fees excluded from interchange fee**

6 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
7 following terms have the following meanings.

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

10 B. "Debit card":

11 (1) Means any card, or other payment code or device, issued or approved for use
12 through a payment card network to debit an asset account, regardless of the purpose
13 for which the account is established, whether authorization is based on signature,
14 personal identification number or other means;

15 (2) Includes a general-use prepaid card, as defined in 15 United States Code,
16 Section 16931-1(a)(2)(A); and

17 (3) Does not include paper checks.

18 C. "Electronic payment transaction" means a transaction in which a person uses a debit
19 card, credit card or other payment code or device, issued or approved through a
20 payment card network to debit a deposit account or use a line of credit, whether
21 authorization is based on a signature, personal identification number or other means.

22 D. "Interchange fee" means a fee established, charged or received by a payment card
23 network for the purpose of compensating the issuer for its involvement in an electronic
24 payment transaction.

25 E. "Issuer" means a person issuing a debit card or credit card, or the issuer's agent.

26 F. "Payment card network" means an entity that:

27 (1) Directly, or through licensed members, processors or agents, provides the
28 proprietary services, infrastructure and software that routes information and data
29 to conduct electronic payment transaction authorization, clearance and settlement;
30 and

31 (2) A merchant or seller uses in order to accept as a form of payment a brand of
32 debit card, credit card or other device that may be used to carry out debit or credit
33 transactions.

34 G. "Settlement" means the transfer of funds from a customer's account to a merchant
35 or seller upon electronic submission of finalized sales transactions to the payment card
36 network.

37 **2. Taxes and fees excluded.** The amount of any state or local tax or fee that is
38 calculated as a percentage of an electronic payment transaction amount and listed

1 separately on the payment invoice or other demand for payment, or the amount of any taxes
2 imposed under Title 36, Part 5, must be excluded from the amount on which an interchange
3 fee is charged for that electronic payment transaction. Such taxes and fees include, but are
4 not limited to, sales and use taxes under Title 36, Part 3.

5 **3. Deduction or rebate.** The following provisions govern deductions and rebates.

6 A. A payment card network shall either:

7 (1) Deduct the amount of any tax or fee imposed from the calculation of
8 interchange fees specific to each form or type of electronic payment transaction at
9 the time of settlement; or

10 (2) Rebate an amount of interchange fee proportionate to the amount attributable
11 to the tax or fee.

12 B. Any deduction or rebate must occur at the time of settlement when the merchant or
13 seller is able to capture and transmit tax or fee amounts relevant to the sale at the time
14 of sale as part of the transaction finalization.

15 C. If a merchant or seller is unable to capture and transmit tax or fee amounts relevant
16 to the sale at the time of sale, the payment card network shall accept proof of tax or fee
17 amounts collected on sales subject to an interchange fee upon the submission of sales
18 data by the merchant or seller and promptly credit the merchant or seller's settlement
19 account.

20 **4. Violation.** A payment card network that violates this section is subject to a civil
21 penalty of not more than \$1,000 per violation, payable to the plaintiff, and shall refund the
22 amount of the interchange fee collected in violation of this section to each merchant or
23 seller.

24 **SUMMARY**

25 This bill excludes the amount of state and local taxes and fees from the amount on
26 which an interchange fee is charged for an electronic payment transaction such as a credit
27 card or debit card transaction.