



Date: December 5, 2023

To: Members of the Pennsylvania House Finance Committee

From: PA Bankers Association
PA Association of Community Bankers
CrossState Credit Union Association

Subject: Oppose Excluding Swipe Fees on Sales Tax

Proposals to exclude swipe fees on the sales tax portion of transactions have been consistently rejected in state legislatures nationwide due to the significant threats they pose to the electronic payment system.

Swipe fees, also known as interchange fees, amount to mere pennies on the dollar and cover essential card-servicing expenses like statements, card issuance, customer service, fraud prevention and protection, and credit monitoring. Additionally, these fees contribute to credit card rewards for consumers.

Despite the considerable benefits currently enjoyed by retailers, including boosted sales, decreased fraud, and quicker payments, these misguided proposals represent an attempt by retailers to transfer their operational expense onto financial institutions and consumers, even though electronic payments are more cost-effective than cash transactions. Furthermore, retailers can avail themselves of federal tax deductions for swipe fees in their entirety, not solely the sales tax portion.

The current card payment system is known for its efficiency and interoperability, and it is designed to transmit the least amount of information necessary to complete a transaction safely and accurately. When a retailer makes a sale, the system recognizes only the final purchase amount on which the swipe fee is based and does not transmit information regarding the product sold nor the amount of sales tax collected.

This legislation necessitates the creation of new, as-yet-undeveloped, specialized payment terminals and software. These tools must be designed to detail and transmit segmented data during a transaction, introducing enhanced risks to consumer data privacy. The legislation otherwise may lead to a system where two transactions are necessary—one for the item sold and another for the remitted sales tax. While big box stores might reap large windfalls, the burden of these system redesign costs would fall on consumers and small businesses while diminishing swipe fee revenues crucial for the maintenance and development of innovative payment technology.

Retailers often wrongly attribute elevated swipe fee costs to alleged price gouging by card networks, banks and credit unions. The increase in swipe fees is a direct outcome of the widespread adoption of electronic payments by consumers and merchants for daily transactions, driven by their speed, convenience, and safety. Government intervention in swipe fees undermines how electronic payments serve and protect consumers while also disrupting a complex ecosystem crucial for the economy to operate and thrive.

We strongly oppose price controls on swipe fees and welcome the opportunity to discuss the ramifications of these proposals and answer any questions.

Retailers are conflating fixed vs. variable costs and percentages vs. dollars

Retailer Claim: “My credit card fees are higher than my rent/mortgage”

Rent/Mortgage:

Fixed Cost

Same monthly amount, regardless of sales

Example:

\$15,000 / month, regardless of sales

Credit Card Fees:

Variable Cost

Different monthly amount, based on sales

Example:

~\$25 month =
~\$1,000 in credit card sales

~\$15,000 month =
~\$600K in credit card sales

~\$75,000 month =
~\$3MM in credit card sales

Would you rather have \$1,000 in monthly credit card sales (card fees much lower than rent) or \$3,000,000 in monthly credit card sales (card fees much higher than rent)?

Retailer Claim: “My credit card processing fees have increased from \$50,000 to \$100,000 in the last 2 years”


















- When retailers make this claim they will most likely quote a dollar figure, not a percent
- Credit card processing fees as a dollar figure have increased because sales have increased
- Credit card processing fees as a percent of sale are flat, negotiable, and competitive
- State and local sales tax revenue has increased, especially during and after the pandemic
- This is due to increased customer spending, not an increase in the sales tax rate

When a retailer complains about increased credit card processing fees, they are complaining about an expense directly attributable to increased sales. Why would increased sales require government intervention?

PAYMENT FORMS: CONSUMER & MERCHANT BENEFITS



For merchants and consumers, when it comes to the costs and benefits of choosing a form of payment, credit and debit cards are the clear-cut winner.

Consumer Benefits				Merchant Benefits			Cost of Merchants	
Digital Access	Security & Fraud Protection	Access to Liquidity	Rewards/Benefits	E-Commerce Digital Channels	Guaranteed payment	Higher Sales & Faster Checkout	Average Merchant Cost of a \$100 Transaction	
✓	✓	✓	✓	✓	✓	✓		 \$1.43-\$2.40
✓	✓	✓	✓	✓	✓	✓		 \$2.50-\$3.50
✓			✓	✓	✓	✓		 \$3.20-\$4.40
✓			✓	✓	✓	✓		 \$3.20-\$3.90
✓	✓		✓	✓	✓	✓		 \$1.43-\$3.50
✓		✓		✓	✓			 \$4.21-\$6.00
✓		✓		✓	✓			 \$3.59-\$5.99
					✓		CASH: FOOD/ GROCERY	 \$4.70
					✓		CASH: CONVENIENCE/ GAS	 \$8.30
					✓		CASH: AVERAGE ACROSS ALL SEGMENTS ¹	 \$9.10

Note: Apple pay merchant costs are calculated assuming users access the service with either a Visa, Mastercard or Amex branded card. Assuming this, merchants are liable to a cost range between the lowest and highest estimated charge of the three networks

¹IHL Group: Cash Multipliers - How reducing the costs of cash handling can enable retail sales and profit growth (January 8, 2018) <https://www.ihlservices.com/product/costofcash/>

This bill shifts an expense from big box retailers who already have ways to recoup the cost of remitting sales tax. The expense is shifted to financial institutions and customers

Small Business Example		
Annual Revenue		\$1,000,000
Sales Tax Collected: 6.21% (weighted average reflecting local tax added in Philadelphia & Alleghany)	0.0621	\$62,100
Sales via Credit Card or Debit Card		
- Credit Card*	32%	\$320,000
- Debit Card*	44%	\$440,000
Sales Tax from Credit Card sales		\$19,872
Sales Tax from Debit Card sales		\$27,324
Average Credit Interchange:	2.50%	\$496.80
Average Debit Interchange:	0.30%	\$81.98
Interchange on Sales Tax from credit & debit sales per year		\$578.78
Monthly Savings from Exemption Legislation		\$48.23

Home Depot Example		
# of Stores in Pennsylvania**		70
Annual Revenue Per Store (pre-sales tax)**		\$62,265,000
Gross Revenue (Sales + Sales Tax)		\$4,629,402,750
Sales Tax Collected: 6.21% (weighted average reflecting local tax added in Philadelphia & Alleghany)	0.0621	\$287,485,911
Sales via Credit or Debit Card		
- Credit Card*	32%	\$1,481,408,880
- Debit Card*	44%	\$2,036,937,210
Sales Tax from Credit Card sales		\$91,995,491
Sales Tax from Debit Card sales		\$126,493,801
Average Credit Interchange:	2.50%	\$2,299,888
Average Debit Interchange:	0.30%	\$379,481
Interchange on Sales Tax from credit and debit sales per year		\$2,679,369
Monthly Savings from Exemption Legislation		\$223,280

- A PA small business with \$1MM in annual sales will reduce its interchange expense by ~\$579/yr. Home Depot will reduce its interchange expense in PA by ~\$2.68 million / yr.
- PA retailers can already hold back 1% of sales tax collected, capped at \$300 per year. Raising the cap to a higher number is a more appropriate policy change. 10 states have no cap. Interchange expense is already tax deductible and retailers can also add a surcharge for credit card transactions.
- Card issuers assume 100% of default risk. If the customer defaults, card issuers absorb the loss; we don't ask the retailer for the money back. Interchange supports the operation of the global payments network, funds rewards, and is one piece of the transfer of risk from the retailer to the financial institution.
- The costs will be borne by PA consumers and small businesses in the form of higher fees, higher interest, or fewer rewards. A large portion of interchange fees are returned to customers as rewards. The legislation creates no discernable "savings" other than to big box retailers. This bill has been tried and defeated ~60 times in ~two dozen states since 2006.

* Source: San Francisco Federal Reserve Report on Customer Payment Choice

** Source: Home Depot Investor Relations site, 1Q earnings report (\$593 sales per sq. ft, average store 105K sq. ft)

Retailers already pay no interchange on sales tax in the 5 states that have no sales tax. Yet merchandise is the same price. No savings are passed along to the customer

State with Sales Tax

Order summary	
Subtotal (1 item)	\$102.90
Delivery	Free
Estimated tax	\$8.49
Delivery & tax for 78701	
Total	\$111.39
By placing an order, you agree to Target's terms and privacy policy .	
Place your order	

Merchandise Price = \$102.90



State without Sales Tax

Order summary	
Subtotal (1 item)	\$102.90
Delivery	Free
Estimated tax	\$0.00
Delivery & tax for 19901	
Total	\$102.90
By placing an order, you agree to Target's terms and privacy policy .	
Place your order	

No interchange on sales tax because there is no sales tax

- New Hampshire, Oregon, Montana, Alaska, and Delaware (NOMAD states) have no sales tax. Retailers pay no interchange on sales tax because there is no sales tax.
- If exempting sales tax from interchange results in savings to customers as bill proponents claim, then merchandise should already be cheaper in the NOMAD states. It is not.
- In the example above from a major retailer website, the merchandise price is exactly the same, regardless of whether it is shipping to a state with sales tax or without sales tax.
- This bill is simply a giveaway to big box retailers who can already hold back a portion of sales tax. They can also surcharge for using credit cards. Additionally, interchange on the total transaction amount, not only the sales tax, is already tax deductible to them

A Long Line of Rejected Legislation

Expected legislation announced in a Pennsylvania State House co-sponsorship memorandum unwisely proposes to prohibit the levying of interchange fees on any portion of a credit card or debit card sale representing any state or local taxes.

Following is a list of similar proposals that have been carefully considered in previous years in other states. Each proposal was uniformly rejected due to harm to consumers, loss of sales tax revenue, legal deficiencies, and operational hurdles.

<p>2006 Kentucky HB 592 New York AB 11193</p> <p>2007 Florida SB 1724 Kansas SB 348 New York AB 1020 Washington SB 5884 Washington SB 5885</p> <p>2008 Kansas HB 2862 Louisiana HB 673 Louisiana SB 516 New Jersey SB 1138 New Jersey AB 2261 Rhode Island HB 7509</p> <p>2009 Connecticut HB 6311 Massachusetts HB 1025 Nebraska LB 186 New Jersey SB 1138 New Jersey AB 2261 North Carolina HB 1576</p> <p>2010 New Jersey SB 1631</p>	<p>2011 New Jersey SB 1631</p> <p>2012 Iowa HSB 666 New Jersey SB 944</p> <p>2013 Arkansas SB 607 New Jersey B 944</p> <p>2014 Nebraska LB 991</p> <p>2015 Arkansas HB 1775 Colorado HB15-1154</p> <p>2016 Minnesota HF 302</p> <p>2017 Nebraska LB 559</p> <p>2018 New Jersey SB 2577</p> <p>2019 New Jersey SB 2577</p> <p>2020 Tennessee HB 2500</p>	<p>2021 Alabama SB 316 Illinois SB 2083 Indiana HB 1493 Iowa HF 627 Maine LD 1544 Mississippi HB 1076 Mississippi SB 2856 Oklahoma HB 2181 Oklahoma SB 798 Tennessee HB 375 Tennessee SB 880 Wisconsin SB 572</p> <p>2022 Idaho SB 1293 Mississippi HB 1428 Mississippi SB 2742 Virginia HB 152</p> <p>2023 Alabama SB 125 Florida SB 564 Florida HB677 Georgia SB 126 Idaho SB 1066 North Dakota SB 2217 Tennessee SB 132 Tennessee HB 615 Texas SB 1541 Texas HB 3395</p>
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