

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 991

Introduced by Nordquist, 7.

Read first time January 21, 2014

Committee: Banking, Commerce and Insurance

A BILL

- 1 FOR AN ACT relating to electronic payment transactions; to prohibit
2 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
3 which a person uses a debit card, credit card, or other payment code
4 or device, issued or approved through a payment card network, to
5 debit an asset account or use a line of credit, whether authorization
6 is based on signature, personal identification number, or other
7 means;

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

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

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

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

24 Sec. 2. The amount of any tax or fee imposed by state or
25 local government that is calculated as a percentage of an electronic

1 payment transaction amount and listed separately on the payment
2 invoice or other demand for payment or the amount of any motor fuel
3 taxes shall be excluded from the amount of an interchange fee charged
4 for that electronic payment transaction.

5 Sec. 3. It shall be unlawful to alter or manipulate the
6 computation and imposition of interchange fees by increasing the rate
7 or amount of fee applicable to or imposed upon that portion of an
8 electronic payment transaction not attributable to a state or local
9 tax or fee to circumvent the effect of section 2 of this act.

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

25 Sec. 5. (1) Sections 1 to 7 of this act are subject to

1 the power and authority of the Attorney General.

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

11 Sec. 6. If sections 1 to 7 of this act or their
12 application are held to be invalid with regard to a federally
13 chartered bank or other financial institution, it shall be held
14 equally invalid with regard to a financial institution licensed by or
15 operating within this state, and to this end sections 1 to 7 of this
16 act are not severable.

17 Sec. 7. Sections 1 to 6 of this act are applicable to
18 electronic payment transactions processed on or after October 1,
19 2014.