

1 SB316  
2 209530-1  
3 By Senator Gudger  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 09-MAR-21

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8 SYNOPSIS: Merchants and sellers may be charged a  
9 credit card swipe fee when a customer uses a credit  
10 or debit card to make a payment.

11 This bill would require a credit or debit  
12 card processor to deduct from the calculation of  
13 the credit card swipe fee the amount of state and  
14 local taxes and certain fees charged to the  
15 customer at the time of making a payment by credit  
16 or debit card.

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18 A BILL  
19 TO BE ENTITLED  
20 AN ACT

21  
22 Relating to credit and debit card fees; to provide  
23 that the calculation of any credit card swipe fee may not  
24 include taxes and fees added on to the price of the goods or  
25 services purchased by credit or debit card.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. As used in this act, the following words  
2 have the following meanings:

3           (1) CREDIT CARD. Any card, plate, coupon book, or  
4 other credit device existing for the purpose of obtaining  
5 money, property, labor, or services on credit.

6           (2) DEBIT CARD. Any card or other payment code or  
7 device issued or approved for use through a payment card  
8 network to debit an asset account, regardless of the purpose  
9 for which the account is established, whether authorization is  
10 based on signature, personal identification number, or other  
11 means. The term includes a general-use prepaid card, as  
12 defined in 15 U.S.C. § 16931-1(a)(2)(A). The term does not  
13 include paper checks.

14           (3) ELECTRONIC PAYMENT TRANSACTION. A transaction in  
15 which a person uses a debit card, credit card, or other  
16 payment code or device issued or approved through a payment  
17 card network to debit a deposit account or use a line of  
18 credit, whether authorization is based on a signature,  
19 personal identification number, or other means.

20           (4) INTERCHANGE FEE. A fee established, charged, or  
21 received by a payment card network for the purpose of  
22 compensating the issuer for its involvement in an electronic  
23 payment transaction.

24           (5) ISSUER. A person issuing a debit card or credit  
25 card, or the issuer's agent.

26           (6) PAYMENT CARD NETWORK. Either of the following:

1           a. An entity that directly, or through licensed  
2 members, processors, or agents, provides the proprietary  
3 services, infrastructure, and software that routes information  
4 and data to conduct debit card or credit card transaction  
5 authorization, clearance, and settlement.

6           b. An entity that a merchant or seller uses in order  
7 to accept as a form of payment a brand of debit card, credit  
8 card, or other device that may be used to carry out debit or  
9 credit transactions.

10           (7) SETTLEMENT. The transfer of funds from a  
11 customer's account to a seller or merchant upon electronic  
12 submission of finalized sales transactions to the payment card  
13 network.

14           (8) TAX OR FEE. A state or local tax or fee levied  
15 or imposed pursuant to state or local law, rule, ordinance,  
16 resolution, or regulation, which is calculated at the time a  
17 customer makes a payment to a merchant or seller.

18           Section 2. The amount of any tax or fee on an  
19 electronic payment transaction shall be excluded from the  
20 amount on which basis an interchange fee is charged for that  
21 electronic payment transaction.

22           Section 3. (a) A payment card network shall do one  
23 of the following:

24           (1) Deduct the amount of any tax or fee imposed from  
25 the calculation of interchange fees specific to each form or  
26 type of electronic payment transaction at the time of  
27 settlement.

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

3           (b) Any deduction or rebate must occur at the time  
4 of settlement when the merchant or seller is able to capture  
5 and transmit tax or fee amounts relevant to the sale at the  
6 time of sales as part of the transaction finalization.

7           (c) If a merchant or seller is unable to capture and  
8 transmit tax or fee amounts relevant to the sale at the time  
9 of sale, the payment card network shall accept proof of tax or  
10 fee amounts collected on sales subject to an interchange fee  
11 upon the submission of sales data by the merchant or seller  
12 and shall promptly credit the merchant's or seller's  
13 settlement account.

14           Section 4. A payment card network that violates this  
15 act shall be liable to the plaintiff for all of the following:

16           (1) The amount of interchange fees paid to the  
17 payment card network in violation of Section 2.

18           (2) Punitive damages not to exceed one thousand  
19 dollars (\$1,000) per violation.

20           (3) Court costs.

21           (4) Reasonable attorney's fees.

22           Section 5. This act shall become effective on the  
23 first day of the third month following its passage and  
24 approval by the Governor, or its otherwise becoming law.