

**SB125 INTRODUCED**



1 P129RE-1  
2 By Senator Coleman  
3 RFD: Banking and Insurance  
4 First Read: 22-Mar-23  
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SYNOPSIS:

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

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

A BILL  
TO BE ENTITLED  
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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



## SB125 INTRODUCED

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

37 (3) ELECTRONIC PAYMENT TRANSACTION. A transaction in  
38 which a person uses a debit card, credit card, or other  
39 payment code or device issued or approved through a payment  
40 card network to debit a deposit account or use a line of  
41 credit, whether authorization is based on a signature,  
42 personal identification number, or other means.

43 (4) INTERCHANGE FEE. A fee established, charged, or  
44 received by a payment card network for the purpose of  
45 compensating the issuer for its involvement in an electronic  
46 payment transaction.

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

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

50 a. An entity that directly, or through licensed  
51 members, processors, or agents, provides the proprietary  
52 services, infrastructure, and software that routes information  
53 and data to conduct debit card or credit card transaction  
54 authorization, clearance, and settlement.

55 b. An entity that a merchant or seller uses in order to  
56 accept as a form of payment a brand of debit card, credit



## SB125 INTRODUCED

57 card, or other device that may be used to carry out debit or  
58 credit transactions.

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

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

66 Section 2. The amount of any tax or fee on an  
67 electronic payment transaction shall be excluded from the  
68 amount on which basis an interchange fee is charged for that  
69 electronic payment transaction.

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

72 (1) Deduct the amount of any tax or fee imposed from  
73 the calculation of interchange fees specific to each form or  
74 type of electronic payment transaction at the time of  
75 settlement.

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

78 (b) Any deduction or rebate must occur at the time of  
79 settlement when the merchant or seller is able to capture and  
80 transmit tax or fee amounts relevant to the sale at the time  
81 of sale as part of the transaction finalization.

82 (c) If a merchant or seller is unable to capture and  
83 transmit tax or fee amounts relevant to the sale at the time  
84 of sale, the payment card network shall accept proof of tax or



## SB125 INTRODUCED

85 fee amounts collected on sales subject to an interchange fee  
86 upon the submission of sales data by the merchant or seller  
87 and shall promptly credit the merchant's or seller's  
88 settlement account.

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

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

93 (2) Punitive damages not to exceed one thousand dollars  
94 (\$1,000) per violation.

95 (3) Court costs.

96 (4) Reasonable attorney fees.

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