

# HOUSE BILL No. 1493

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 24-5-28.

**Synopsis:** Payment card network interchange fees. Provides that the amount of certain taxes (covered taxes) that are: (1) calculated as a percentage of the gross retail income received by a merchant or seller in an electronic payment transaction; and (2) listed separately on the payment invoice or other demand for payment; must be excluded from the amount upon which any interchange fee is charged by a payment card network for the electronic payment transaction. Defines an "interchange fee" as a fee established, charged, or received by a payment card network to compensate an issuer of a debit card or credit card for the issuer's involvement in an electronic payment transaction. Requires a payment card network to do one of the following: (1) At the time of settlement of an electronic payment transaction, deduct from the calculation of any interchange fees the amount of any covered taxes that are specific to that form or type of electronic payment transaction. (2) Rebate an amount of the interchange fee in an amount proportionate to the amount of the interchange fee attributable to all covered taxes imposed in the electronic payment transaction. Provides that the required deduction or rebate must occur at the time of settlement when the merchant or seller, as part of the transaction finalization, is able to capture and transmit tax and fee amounts relevant to the sale at the time of sale. Provides an exception allowing a payment card network to credit a merchant's or seller's settlement account for interchange fees collected on amounts that included covered taxes, in cases in which a merchant or seller is not able to capture and transmit tax or fee amounts relevant to the sale at the time of sale. Provides that a payment card network that violates these provisions: (1) is liable for a civil penalty  
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**Effective:** Upon passage.

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January 14, 2021, read first time and referred to Committee on Commerce, Small Business and Economic Development.

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Digest Continued

in an amount not to exceed \$1,000 per violation, payable to a person aggrieved by the violation; and (2) shall refund to each affected merchant or seller the amount of excess interchange fees collected.



Introduced

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

## HOUSE BILL No. 1493

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 24-5-28 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
3 PASSAGE]:

4 **Chapter 28. Payment Card Interchange Fees**  
5 **Sec. 1. This chapter applies to an electronic payment**  
6 **transaction:**  
7 **(1) that is initiated after June 30, 2021; and**  
8 **(2) with respect to which a covered tax is:**  
9 **(A) imposed by Indiana law; or**  
10 **(B) imposed by a local unit under the authority of Indiana**  
11 **law.**

12 **Sec. 2. As used in this chapter, "covered tax" means any of the**  
13 **following:**  
14 **(1) The state gross retail tax imposed under IC 6-2.5-2-1 or**  
15 **use tax imposed under IC 6-2.5-3-2.**



1 (2) The auto rental excise tax imposed under IC 6-6-9.

2 (3) The county supplemental auto rental excise tax imposed  
3 under IC 6-6-9.5.

4 (4) The county supplemental auto rental excise tax imposed  
5 under IC 6-6-9.7.

6 (5) The vehicle sharing excise tax imposed under IC 6-6-16.

7 (6) An innkeeper's tax imposed under IC 6-9.

8 **Sec. 3. As used in this chapter, "credit card" means any:**

9 (1) card;

10 (2) plate;

11 (3) coupon book; or

12 (4) other credit device;

13 that is issued for the purpose of allowing a person to obtain money,  
14 property, labor, or services on credit.

15 **Sec. 4. (a) As used in this chapter, "debit card" means any card,  
16 or other payment code or device, issued or approved for use  
17 through a payment card network to debit an asset account,  
18 regardless of:**

19 (1) the purpose for which the account is established; or

20 (2) whether authorization for the debit is based on a  
21 signature, a personal identification number, or other means.

22 **(b) The term:**

23 (1) includes a general-use prepaid card (as defined in 15  
24 U.S.C. 16931-1(a)(2)(A)); but

25 (2) does not include a paper check.

26 **Sec. 5. As used in this chapter, "electronic payment transaction"  
27 means a transaction in which a person uses a debit card, a credit  
28 card, or another payment code or device issued or approved for  
29 use through a payment card network to:**

30 (1) debit a deposit account; or

31 (2) use a line of credit;

32 regardless of whether authorization for the debit is based on a  
33 signature, a personal identification number, or other means.

34 **Sec. 6. As used in this chapter, "interchange fee" means a fee  
35 established, charged, or received by a payment card network for  
36 the purpose of compensating an issuer for the issuer's involvement  
37 in an electronic payment transaction.**

38 **Sec. 7. (a) As used in this chapter, "issuer" means a person that  
39 issues a debit card or a credit card.**

40 **(b) The term includes an agent of a person described in  
41 subsection (a).**

42 **Sec. 8. As used in this chapter, "payment card network" means**



1 an entity that directly, or through licensed members, processors,  
2 or agents, provides the proprietary services, infrastructure, and  
3 software that:

4 (1) route information and data to conduct debit card or credit  
5 card transaction authorization, clearance, and settlement; and

6 (2) a merchant or seller uses in order to accept as a form of  
7 payment a brand of:

8 (A) debit card;

9 (B) credit card; or

10 (C) another device that may be used to carry out debit or  
11 credit transactions.

12 **Sec. 9.** As used in this chapter, "settlement", with respect to an  
13 electronic payment transaction, means the transfer of funds from  
14 a customer's account to a seller or merchant upon electronic  
15 submission of finalized sales transactions to a payment card  
16 network.

17 **Sec. 10. (a)** The amount of any covered tax that is:

18 (1) calculated as a percentage of the gross retail income (as  
19 defined in IC 6-2.5-1-5) received by a merchant or seller in an  
20 electronic payment transaction; and

21 (2) listed separately on the payment invoice or other demand  
22 for payment;

23 must be excluded from the amount upon which any interchange fee  
24 is charged for the electronic payment transaction with respect to  
25 which the covered tax is imposed.

26 (b) A payment card network shall do one (1) of the following:

27 (1) At the time of settlement of an electronic payment  
28 transaction, deduct from the calculation of any interchange  
29 fees to be imposed the amount of any covered taxes that are  
30 specific to that form or type of electronic payment  
31 transaction.

32 (2) Rebate an amount of the interchange fee in an amount  
33 proportionate to the amount of the interchange fee  
34 attributable to all covered taxes imposed in the electronic  
35 payment transaction.

36 (c) Except as provided in subsection (d), a:

37 (1) deduction made under subsection (b)(1); or

38 (2) a rebate made under subsection (b)(2);

39 must occur at the time of settlement when the merchant or seller,  
40 as part of the transaction finalization, is able to capture and  
41 transmit tax and fee amounts relevant to the sale at the time of  
42 sale.



1           **(d) If a merchant or seller is not able to capture and transmit**  
2 **tax or fee amounts relevant to the sale at the time of sale, the**  
3 **payment card network shall:**  
4           **(1) upon submission of sales data by the merchant or seller,**  
5           **accept proof of covered tax amounts collected on sales subject**  
6           **to an interchange fee; and**  
7           **(2) promptly credit the merchant's or seller's settlement**  
8           **account.**  
9       **Sec. 11. A payment card network that violates this chapter:**  
10           **(1) is liable for a civil penalty in an amount not to exceed one**  
11           **thousand dollars (\$1,000) per violation, payable to a person**  
12           **determined by a court to have been aggrieved by the**  
13           **violation; and**  
14           **(2) shall refund to each merchant or seller affected by the**  
15           **violation the amount of excess interchange fees collected.**  
16       **SECTION 2. An emergency is declared for this act.**

