

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL

HB 375

January 26, 2021

SUMMARY OF BILL: Prohibits payment card networks from charging interchange fees on any state or local taxes. Establishes a civil penalty of not more than \$1,000 per violation for payment card networks that violate this Act.

ESTIMATED FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- The proposed legislation will primarily impact transactions between private parties.
- It is assumed that the prohibition on charging interchange fees on state or local taxes will not significantly impact taxable sales subject to such taxes. Therefore, any impact on state or local tax collections will be not significant.
- No additional staff will be required for auditing purposes since the onus for gaining the remittance is on the merchant to file with payment card networks.
- Any increase in state revenue from civil penalties is estimated to be not significant.

IMPACT TO COMMERCE:

Increase Business Revenue –

Exceeds \$34,568,800/FY21-22 and Subsequent Years

Other Commerce Impact – The extent of the increase in business revenue that will be recaptured through increased fees by payment card networks cannot be quantified with reasonable certainty.

Assumptions:

- According to a 2018 Nilson Report, Visa and MasterCard accounted for 85 percent of credit and debit card purchases in the United States.
- According to Visa and MasterCard's annual and quarterly reports, they combined for \$15,800,000,000 in transaction fee revenue. Assuming a proportional share of transaction fee revenue to the credit and debit card purchases, the total amount is estimated to be \$18,588,235,294 ($\$15,800,000,000 / 85\%$).

- Based on population, it is estimated that the amount of transaction fees attributable to Tennessee is equal to \$386,736,771 [$\$18,588,235,294 \times (6,829,174 / 328,239,523)$].
- The current state sales tax rate is 7.0 percent, and the average local option sales tax rate is estimated to be 2.5 percent, for a combined average sales tax rate of 9.5 percent. The portion of interchange fees that are collected from such fees being imposed on state and local sales taxes is estimated to be 8.68 percent [$0.095 / (1 \times 1.095)$].
- It is therefore estimated that the proposed legislation will result in an increase in business revenue for Tennessee merchants of \$33,568,752 ($\$386,736,771 \times 8.68\%$). Such increase represents savings from interchange fees that are currently imposed on state and local sales and use taxes.
- Additional interchanges fees imposed on taxes other than the sales and use tax, which will now be exempt from such charges, are reasonably estimated to make up at least \$1,000,000 of fee revenue.
- The total increase in business revenue for Tennessee businesses is estimated to exceed \$34,568,752 ($\$33,568,752 + \$1,000,000$) beginning in FY21-22.
- Visa, Mastercard, American Express, Discover, and other payment card networks whose headquarters are not in Tennessee make up the vast majority of networks imposing transactions fees. Therefore, it is estimated that the equivalent decrease in revenue will be realized by out-of-state businesses; any decrease in revenue to Tennessee businesses will be not significant.
- Payment card networks could increase interchange fees to recapture some or all of the estimated loss of revenue. Due to multiple unknown variables, the amount of any such recapture cannot be quantified with reasonable certainty.
- Any impact on jobs in this state is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Bojan Savic, Interim Executive Director

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