

HOUSE BILL 375

By Hawk

AN ACT to amend Tennessee Code Annotated, Title 67,
relative to taxes and fees collected by merchants
and sellers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 1, is amended by adding
the following as a new part:

67-1-1901. For purposes of this part:

(1) "Credit card" means a card, plate, coupon book, or other credit device
existing for the purpose of obtaining money, property, labor, or services on credit;

(2) "Debit card":

(A) Means a card, or other payment code or device, issued or approved
for use through a payment card network to debit an asset account, regardless of
the purpose for which the account is established, whether authorization is based
on signature, personal identification number, or other means;

(B) Includes a general-use prepaid card, as defined in 15 U.S.C. § 1693l-
1; and

(C) Does not include paper checks;

(3) "Electronic payment transaction" means a transaction in which a person uses
a debit card, credit card, or other payment code or device, issued or approved through a
payment card network to debit a deposit account or use a line of credit, whether
authorization is based on a signature, personal identification number, or other means;

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

(5) "Issuer" means a person issuing a debit card or credit card, or the issuer's agent;

(6) "Payment card network" means an entity that:

(A) Directly, or through licensed members, processors, or agents provides the proprietary services, infrastructure, and software that routes information and data to conduct debit card or credit card transaction authorization, clearance, and settlement; and

(B) A merchant or seller uses in order to accept as a form of payment a brand of debit card, credit card, or other device that may be used to carry out debit or credit transactions; and

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

67-1-1902. The amount of a state or local tax or fee that is calculated as a percentage of an electronic payment transaction amount and listed separately on the payment invoice or other demand for payment, or the amount of a tax imposed under chapter 3 of this title, must be excluded from the amount on which an interchange fee is charged for that electronic payment transaction. Such taxes and fees include, but are not limited to:

- (1) Sales and use taxes under chapter 6 of this title;
- (2) Hotel occupancy taxes under § 67-4-1402 or an applicable private act;
- (3) Alcoholic beverage taxes under § 57-4-301(c); and
- (4) Rental vehicle surcharge taxes under chapter 4, part 19 of this title.

67-1-1903.

(a) A payment card network shall either:

(1) Deduct the amount of any tax imposed from the calculation of interchange fees specific to each form or type of electronic payment transaction at the time of settlement; or

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

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

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

67-1-1904. A payment card network that violates this part is subject to a civil penalty of not more than one thousand dollars (\$1,000) per violation, payable to the plaintiff, and shall refund the surcharge to each merchant or seller.

SECTION 2. This act takes effect July 1, 2021, the public welfare requiring it.