

IN THE SENATE

SENATE BILL NO. 1293

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO ELECTRONIC PAYMENT TRANSACTIONS; AMENDING CHAPTER 36, TITLE  
2 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3643, IDAHO CODE, TO  
3 ESTABLISH PROVISIONS REGARDING THE EXCLUSION OF CERTAIN FEES AND TAXES  
4 FROM ANY ELECTRONIC PAYMENT TRANSACTION INTERCHANGE FEE; AND DECLARING  
5 AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Chapter 36, Title 63, Idaho Code, be, and the same is  
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
10 ignated as Section 63-3643, Idaho Code, and to read as follows:

11 63-3643. ELECTRONIC PAYMENT TRANSACTION INTERCHANGE FEES. (1) The  
12 amount of a state or local tax or fee that is calculated as a percentage of an  
13 electronic payment transaction amount and listed separately on the payment  
14 invoice or other demand for payment must be excluded from the amount on which  
15 an interchange fee is charged for that electronic payment transaction. Such  
16 taxes and fees include but are not limited to:

- 17 (a) Sales and use taxes under this chapter;  
18 (b) Hotel and motel room sales taxes pursuant to sections 67-4917A  
19 through 67-4917C, Idaho Code;  
20 (c) Fuels taxes pursuant to chapter 24, title 63, Idaho Code; and  
21 (d) Cigarette and tobacco products taxes pursuant to chapter 24, title  
22 63, Idaho Code.

- 23 (2) (a) A payment card network shall either:  
24 (i) Deduct the amount of any tax imposed from the calculation of  
25 interchange fees specific to each form or type of electronic pay-  
26 ment transaction at the time of settlement; or  
27 (ii) Rebate an amount of interchange fee proportionate to the  
28 amount attributable to the tax or fee.

29 (b) A deduction or rebate must occur at the time of settlement when the  
30 merchant or seller is able to capture and transmit tax or fee amounts  
31 relevant to the sale at the time of sale as part of the transaction fi-  
32 nalization. If a merchant or seller is unable to capture and transmit  
33 tax or fee amounts relevant to the sale at the time of sale, then the pay-  
34 ment card network must accept proof of tax or fee amounts collected on  
35 sales subject to an interchange fee upon the submission of sales data by  
36 the merchant or seller and promptly credit the merchant or seller's set-  
37 tlement account.

38 (3) For the purposes of this section:

- 39 (a) "Credit card" means a card or device, whether known as a credit card  
40 or by any other name, issued under an arrangement pursuant to which a  
41 card issuer gives to a cardholder the privilege of obtaining credit from

1 the card issuer or other person in purchasing or leasing property or  
2 services, obtaining loans, or otherwise.

3 (b) "Debit card":

4 (i) Means any instrument or device, whether known as a debit card  
5 or by any other name, issued with or without a fee by an issuer for  
6 the use of the cardholder in depositing, obtaining, or transfer-  
7 ring funds;

8 (ii) Includes a general-use prepaid card, as defined in 15 U.S.C.  
9 16931-1; and

10 (iii) Does not include paper checks.

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

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

19 (e) "Issuer" means a person issuing a debit card or credit card, or the  
20 issuer's agent.

21 (f) "Payment card network" means an entity that:

22 (i) Directly, or through licensed members, processors, or  
23 agents, provides the proprietary services, infrastructure, and  
24 software that routes information and data to conduct debit card  
25 or credit card transaction authorization, clearance, and settle-  
26 ment; and

27 (ii) A merchant or seller uses in order to accept as a form of pay-  
28 ment a brand of debit card, credit card, or other device that may be  
29 used to carry out debit or credit transactions.

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

33 (4) A payment card network that violates the provisions of this section  
34 is subject to a civil penalty of no more than one thousand dollars (\$1,000)  
35 per violation, payable to the plaintiff, and shall refund the surcharge to  
36 each merchant or seller.

37 SECTION 2. An emergency existing therefor, which emergency is hereby  
38 declared to exist, this act shall be in full force and effect on and after  
39 July 1, 2022.