

IN THE SENATE

SENATE BILL NO. 1055

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO ELECTRONIC PAYMENT TRANSACTIONS; AMENDING CHAPTER 36, TITLE 63,
2 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3643, IDAHO CODE, TO ES-
3 TABLISH PROVISIONS PROHIBITING THE IMPOSITION OF AN ELECTRONIC PAYMENT
4 TRANSACTION INTERCHANGE FEE ON ANY PORTION OF THE TRANSACTION AMOUNT
5 THAT REPRESENTS A TAX OR GRATUITY UNDER CERTAIN CONDITIONS, TO DEFINE
6 TERMS, AND TO PROVIDE A PENALTY; AND PROVIDING AN EFFECTIVE DATE.
7

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

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

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

- 19 (a) Sales and use taxes under this chapter;
20 (b) Hotel and motel room sales taxes pursuant to sections 67-4917A
21 through 67-4917C, Idaho Code;
22 (c) Fuels taxes pursuant to chapter 24, title 63, Idaho Code; and
23 (d) Cigarette and tobacco products taxes pursuant to chapter 25, title
24 63, Idaho Code.

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

31 (b) A deduction or rebate must occur at the time of settlement when the
32 merchant captures and transmits the tax and gratuity amounts relevant
33 to the sale at the time of sale as part of the transaction finalization.
34 If a merchant is unable to capture and transmit tax and gratuity amounts
35 relevant to the sale at the time of sale, the merchant may submit tax
36 and gratuity documentation to the payment card network no later than
37 one hundred eighty (180) days after the date of the electronic payment
38 transaction. Within thirty (30) days after the merchant submits the
39 necessary tax and gratuity documentation, the issuer must credit to the
40 merchant the amount of interchange fees charged on the tax and gratuity
41 amount of the electronic payment transaction.

1 (3) This section creates no liability for a payment card network re-
2 garding the accuracy of the tax or gratuity amount reported by the merchant.
3 If a merchant chooses not to identify the tax or gratuity amounts, or both
4 tax and gratuity amounts, calculated as a percentage of an electronic pay-
5 ment transaction, the interchange fee may be charged on the full unsegre-
6 gated amount of the electronic payment transaction.

7 (4) It shall be unlawful for any person to alter or manipulate the com-
8 putation and imposition of interchange fees by increasing the rate or amount
9 of the fees applicable to or imposed upon the portion of a credit or debit
10 card transaction not attributable to taxes and gratuities charged to the re-
11 tailer in order to circumvent the effect of this section.

12 (5) For the purposes of this section:

13 (a) "Acquirer bank" means a member of a payment card network that con-
14 tracts with a merchant for the settlement of electronic payment trans-
15 actions. An acquirer bank may contract directly with merchants or indi-
16 rectly through a processor to process electronic payment transactions.

17 (b) "Authorization" means the process through which a merchant re-
18 quests approval for an electronic payment transaction from the issuer.

19 (c) "Clearance" means the process of transmitting final transaction
20 data from a merchant to an issuer for posting to the cardholder's ac-
21 count and the calculation of fees and charges, including interchange
22 fees, that apply to the issuer and the merchant.

23 (d) "Credit card" means a card or device, whether known as a credit card
24 or by any other name, issued under an arrangement pursuant to which a
25 card issuer gives to a cardholder the privilege of obtaining credit from
26 the card issuer or other person in purchasing or leasing property or
27 services, obtaining loans, or otherwise.

28 (e) "Debit card":

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

33 (ii) Includes a general-use prepaid card, as defined in 15 U.S.C.
34 16931-1; and

35 (iii) Does not include paper checks.

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

41 (g) "Gratuity" means a monetary contribution to an employee from a
42 guest, patron, or customer in connection with services rendered.

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

46 (i) "Issuer" means a person issuing a debit card or credit card, or the
47 issuer's agent.

48 (j) "Payment card network" means an entity that:

49 (i) Directly, or through licensed members, processors, or
50 agents, provides the proprietary services, infrastructure, and

1 software that routes information and data to conduct electronic
2 payment transaction authorization, clearance, and settlement;
3 and

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

7 (k) "Processor" means an entity that facilitates, services, processes,
8 or manages the debit or credit authorization, billing, transfer, pay-
9 ment procedures, or settlement with respect to any electronic payment
10 transaction.

11 (l) "Settlement" means the process of transmitting sales information
12 to the issuing bank for collection and reimbursement of funds to the
13 merchant and calculating and reporting the net transaction amount to
14 the issuer and merchant for an electronic payment transaction that is
15 cleared.

16 (m) "Tax and gratuity documentation" means documentation sufficient
17 for the payment card network to determine the total amount of the elec-
18 tronic payment transaction and the tax or gratuity amount, or both tax
19 and gratuity amounts, of the transaction. Tax and gratuity documenta-
20 tion may be related to a single electronic payment transaction or mul-
21 tiple electronic payment transactions aggregated over a period of time.
22 Examples of tax and gratuity documentation include but are not limited
23 to invoices, receipts, journals, ledgers, and tax returns filed with
24 the Idaho state tax commission or local taxing authorities.

25 (6) An issuer, payment card network, acquirer bank, processor, or other
26 designated entity that has received the tax and gratuity documentation pur-
27 suant to this section and violates the provisions of this section is sub-
28 ject to a civil penalty of one thousand dollars (\$1,000) per electronic pay-
29 ment transaction, and the issuer must refund the merchant the interchange
30 fee calculated on any tax and gratuity amounts relative to the electronic
31 payment transaction.

32 SECTION 2. This act shall be in full force and effect on and after Jan-
33 uary 1, 2026.