

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act prohibiting card interchange fees on tax or gratuity.

PETITION OF:

NAME:

Cynthia Stone Creem

DISTRICT/ADDRESS:

Norfolk and Middlesex

SENATE No.

[Pin Slip]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act prohibiting card interchange fees on tax or gratuity.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 140D of the General Laws is hereby amended by inserting the following new
2 section:-

3 Section 37. (a) As used in this section, the following words shall have the following
4 meanings unless the context clearly requires otherwise:-

5 "Acquirer bank", a member of a payment card network that contracts with a merchant for
6 the settlement of electronic payment transactions. An acquirer bank may contract directly with
7 merchants or indirectly through a processor to process electronic payment transactions.

8 "Authorization", the process through which a merchant requests approval for an
9 electronic payment transaction from the issuer.

10 "Clearance", the process of transmitting final transaction data from a merchant to an
11 issuer for posting to the cardholder's account and the calculation of fees and charges, including
12 interchange fees, that apply to the issuer and the merchant.

13 "Credit card", a card, plate, coupon book, or other credit device existing for the purpose
14 of obtaining money, property, labor, or services on credit.

15 "Debit card", a card or other payment code or device issued or approved for use through a
16 payment card network to debit an asset account, regardless of the purpose for which the account
17 is established, whether authorization is based on a signature, a personal identification number, or
18 other means. "Debit card" includes a general use prepaid card, as defined in 15 U.S.C. 16931-1.
19 "Debit card" does not include paper checks.

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

24 "Gratuity", a voluntary monetary contribution to an employee from a guest, patron, or
25 customer in connection with services rendered.

26 "Interchange fee", a fee established, charged, or received by a payment card network for
27 the purpose of compensating the issuer for its involvement in an electronic payment transaction.

28 "Issuer", a person issuing a debit card or credit card or the issuer's agent.

29 "Merchant", a person that collects and remits a tax.

30 "Payment card network", an entity that: (1) directly or through licensed members,
31 processors, or agents, provides the proprietary services, infrastructure, and software to route
32 information and data for the purpose of conducting electronic payment transaction authorization,
33 clearance, and settlement; and (2) a merchant uses to accept as a form of payment a brand of

34 debit card, credit card, or other device that may be used to carry out electronic payment
35 transactions.

36 "Person", any individual, firm, public or private corporation, government, partnership,
37 association, or any other organization or entity.

38 "Processor", an entity that facilitates, services, processes, or manages the debit or credit
39 authorization, billing, transfer, payment procedures, or settlement with respect to any electronic
40 payment transaction.

41 "Settlement", the process of transmitting sales information to the issuing bank for
42 collection and reimbursement of funds to the merchant and calculating and reporting the net
43 transaction amount to the issuer and merchant for an electronic payment transaction that is
44 cleared.

45 "Tax", any sales, use, occupancy, or excise tax imposed by the commonwealth or a
46 political subdivision thereof.

47 "Tax documentation", documentation sufficient for the payment card network to
48 determine the total amount of the electronic payment transaction and the tax or gratuity amount
49 of the transaction. Tax documentation may be related to a single electronic payment transaction
50 or multiple electronic payment transactions aggregated over a period of time. Examples of tax
51 documentation include, but are not limited to, invoices, receipts, journals, ledgers, and tax
52 returns filed with the Department of Revenue or local taxing authorities.

53 (b) An issuer, a payment card network, an acquirer bank, or a processor may not receive
54 or charge a merchant any interchange fee on the tax amount or gratuity of an electronic payment

55 transaction if the merchant informs the acquirer bank or its designee of the tax or gratuity amount
56 as part of the authorization or settlement process for the electronic payment transaction. The
57 merchant must transmit the tax or gratuity amount data as part of the authorization or settlement
58 process to avoid being charged interchange fees on the tax or gratuity amount of an electronic
59 payment transaction.

60 (c) A merchant that does not transmit the tax or gratuity amount data in accordance with
61 this section may submit tax documentation for the electronic payment transaction to the acquirer
62 bank or its designee no later than 180 days after the date of the electronic payment transaction,
63 and, within 30 days after the merchant submits the necessary tax documentation, the issuer must
64 credit to the merchant the amount of interchange fees charged on the tax or gratuity amount of
65 the electronic payment transaction.

66 (d) This section does not create liability for a payment card network regarding the
67 accuracy of the tax or gratuity data reported by the merchant.

68 (e) It shall be unlawful for an issuer, a payment card network, an acquirer bank, or a
69 processor to alter or manipulate the computation and imposition of interchange fees by
70 increasing the rate or amount of the fees applicable to or imposed upon the portion of a credit or
71 debit card transaction not attributable to taxes or other fees charged to the merchant.

72 (f) An issuer, a payment card network, an acquirer bank, a processor, or other designated
73 entity that has received the tax or gratuity amount data and violates this section is subject to a
74 civil penalty of \$1,000 per electronic payment transaction, and the issuer must refund the
75 merchant the interchange fee calculated on the tax or gratuity amount relative to the electronic
76 payment transaction.

77 (g) The provisions of this section are severable. If any provision therein is declared
78 unconstitutional or invalid by a court of competent jurisdiction, the validity of the remaining
79 provisions shall not be affected.