

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

*As Engrossed: H3/13/15*

# A Bill

HOUSE BILL 1775

5 By: Representatives J. Mayberry, Branscum  
6 By: Senator J. Hutchinson  
7

## For An Act To Be Entitled

9 AN ACT CONCERNING TAXES RELEVANT TO BUSINESSES IN THE  
10 STATE; TO CREATE THE ELECTRONIC PAYMENT TRANSACTION  
11 PROTECTION ACT; TO PROHIBIT THE COLLECTION OF  
12 INTERCHANGE FEES ON CERTAIN TAXES AND FEES; TO  
13 DEDICATE CERTAIN TAX REVENUE FOR EDUCATIONAL  
14 PURPOSES; TO AMEND THE LAW CONCERNING THE DISCOUNT  
15 AVAILABLE TO TAXPAYERS FOR PROMPT SUBMISSION OF SALES  
16 TAXES RETURNS AND PAYMENTS; AND FOR OTHER PURPOSES.  
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## Subtitle

19 TO PROHIBIT THE COLLECTION OF INTERCHANGE  
20 FEES ON CERTAIN TAXES AND FEES; AND TO  
21 AMEND THE DISCOUNT AVAILABLE TO TAXPAYERS  
22 FOR PROMPT SUBMISSION OF SALES TAXES  
23 RETURNS.  
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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29 SECTION 1. Arkansas Code Title 26, Chapter 19, is amended to add an  
30 additional subchapter to read as follows:

31 Subchapter 2 – Electronic Payment Transaction Protection Act  
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33 26-19-201. Title.

34 This subchapter shall be known and may be cited as the “Electronic  
35 Payment Transaction Protection Act”.  
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1           26-19-202. Definitions.

2           As used in this subchapter:

3           (1) “Electronic payment transaction” means a transaction in  
4 which a person uses a debit card, credit card, or other payment code or  
5 device, issued or approved through a payment card network to debit an asset  
6 account or use a line of credit regardless of whether authorization is based  
7 on a signature, personal identification number, or other means;

8           (2) “Interchange fee” means a fee established, charged, or  
9 received by a payment card network to compensate an issuer for its  
10 involvement in an electronic payment transaction;

11          (3) “Issuer” means a person who issues a debit card or credit  
12 card or the agent of a person who issues a debit card or credit card;

13          (4) “Payment card network” means an entity that:

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

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

21          (5) “Settlement” means a transfer of funds from a customer’s  
22 account to a seller or merchant upon electronic submission of a finalized  
23 sales transaction to a payment card network.

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25          26-19-203. Interchange fees – Limitation.

26          (a) The following are excluded from the amount of an interchange fee  
27 charged for an electronic payment transaction:

28           (1) A tax or fee levied by a state or local government that is  
29 calculated as a percentage of an electronic payment transaction amount and  
30 listed separately on a payment invoice or other demand for payment; and

31           (2) A tax levied under the Motor Fuel Tax Law, § 26-55-201 et  
32 seq., or the Special Motor Fuels Tax Law, § 26-56-101 et seq.

33          (b) This subchapter does not affect the amount of an interchange fee  
34 established, charged, or received by payment card networks, issuers, or other  
35 vendors for authorizing an electronic payment transaction to pay state and  
36 local taxes, fees, child support, costs, fines, or any other payment to state

1 and local government agencies, boards, and commissions.

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3 26-19-204. Alteration or manipulation of interchange fee prohibited.

4 A person shall not alter or manipulate the computation and imposition  
5 of interchange fees by increasing the rate or amount of a fee applicable to  
6 or imposed on the portion of an electronic payment transaction that is not  
7 attributable to a state or local tax or fee in order to circumvent the effect  
8 of this subchapter.

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10 26-19-205. Deduction or rebate – Settlement procedure.

11 (a) A payment card network shall either:

12 (1) Deduct the amount of a tax or fee levied as described in §  
13 26-19-203 from the calculation of the interchange fees specific to each form  
14 or type of electronic payment transaction at the time of settlement; or

15 (2) Rebate the amount of the interchange fee that is  
16 proportionate to the amount attributable to a tax or fee levied as described  
17 in § 26-19-203.

18 (b) A deduction or rebate under subsection (a) of this section shall  
19 be given at the time of settlement when the merchant or seller is able to  
20 capture and transmit the tax or fee relevant to a sale at the time of sale as  
21 part of the finalization of the sales transaction.

22 (c) If a merchant or seller is unable to capture and transmit a tax or  
23 fee relevant to a sale at the time of the sale, the payment card network  
24 shall:

25 (1) Accept proof of the tax or fee collected on the sale subject  
26 to an interchange fee upon submission of sales data by the seller or  
27 merchant; and

28 (2) Promptly credit the merchant or seller's settlement account  
29 for the amount of the rebate due under this section.

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31 26-19-206. Enforcement – Penalties.

32 (a) The Chief Fiscal Officer of the State shall bring the necessary  
33 actions to enforce this subchapter.

34 (b) If a court finds in an action brought under subsection (a) of this  
35 section that a person has intentionally violated this subchapter, the person  
36 shall be subject to a civil penalty of at least one thousand dollars (\$1,000)

1 but not more than five thousand dollars (\$5,000) for each violation.

2 (c)(1) A person paying an interchange fee imposed in violation of this  
3 subchapter may bring an action at law to recover the person's actual damages.

4 (2) In an action brought under subdivision (c)(1) of this  
5 section, a court may order equitable relief, including temporary and  
6 permanent injunctive relief, in addition to or in lieu of the person's actual  
7 damages.

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9 26-19-207. Applicability.

10 This subchapter applies to:

11 (1) The computation of an interchange fee established, charged,  
12 or received by a payment card network to compensate the issuer for the  
13 issuer's involvement in an electronic payment transaction; and

14 (2) Electronic payment transactions processed on or after the  
15 effective date of this subchapter.

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17 SECTION 2. DO NOT CODIFY. Legislative findings and intent.

18 (a) The General Assembly finds that:

19 (1) The practice of compensating retailers for collecting sales  
20 taxes originated in the 1930s;

21 (2) At the time that this practice originated, records were kept  
22 mainly by hand, and as a result, it made sense to compensate retailers for  
23 the costs associated with collecting and remitting sales taxes;

24 (3) Retailers today use electronic cash registers and computers  
25 to track their gross receipts and sales tax collections, which reduces the  
26 time and resources required to collect and remit sales taxes; and

27 (4) As a result, there is less need to compensate retailers for  
28 the costs associated with collecting and remitting sales taxes.

29 (b) The General Assembly intends for this act to more appropriately  
30 compensate retailers today for the costs associated with collecting and  
31 remitting sales taxes while providing funding for:

32 (1) The College and Career Coaches Program, § 6-1-601 et seq.,  
33 which will help create a more skilled work force for businesses in the state  
34 to utilize in growing and expanding their businesses;

35 (2) Additional positions for school nurses;

36 (3) School nursing facilities and equipment; and

1           (4) The panic button alert systems required for public schools  
2 under § 6-15-1302.

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4           SECTION 3. Arkansas Code § 26-52-503 is amended to read as follows:

5           26-52-503. Discount for ~~prompt~~ early payment.

6           (a) At the time of transmitting the returns required under this  
7 chapter to the Director of the Department of Finance and Administration, the  
8 taxpayer shall remit with the returns to the director ~~ninety-eight percent~~  
9 ~~(98%)~~ ninety-eight and five-tenths percent (98.5%) of the state tax due under  
10 ~~the applicable provisions of this chapter and~~ ~~ninety-eight percent (98%)~~  
11 ninety-eight and five-tenths percent (98.5%) of the city and county gross  
12 receipts taxes collected by the director.

13           (b) Failure of the taxpayer to remit the tax on or before the  
14 twentieth day of the applicable month shall cause the taxpayer to forfeit his  
15 or her claim to the discount, and the taxpayer ~~must~~ shall remit to the  
16 director one hundred percent (100%) of the amount of tax plus any penalty and  
17 interest due.

18           (c)(1)(A) ~~For tax payments made on or after February 1, 1993, the~~ The  
19 discount for ~~prompt~~ early payment of state tax shall not exceed ~~one thousand~~  
20 ~~dollars (\$1,000)~~ fifty dollars (\$50.00) per month for a taxpayer filing  
21 monthly gross receipts tax reports.

22           (B) A taxpayer filing a tax report on a quarterly, annual,  
23 or occasional basis ~~shall be~~ is entitled to the discount for state tax, which  
24 shall not exceed ~~one thousand dollars (\$1,000)~~ fifty dollars (\$50.00) for  
25 each month included in the tax report.

26           (2)(A) The aggregate state tax discount available to a taxpayer  
27 who operates more than one (1) permitted business location within this state  
28 and who does not file a consolidated monthly gross receipts tax report for  
29 all locations shall not exceed ~~one thousand dollars (\$1,000)~~ fifty dollars  
30 (\$50.00) per month.

31           (B) In the case of a corporate taxpayer, parent  
32 corporation, that holds fifty percent (50%) or more of the outstanding shares  
33 of one (1) or more corporations, subsidiaries, that are subject to the tax  
34 imposed by this chapter, the aggregate state tax discount available to the  
35 parent corporation and all subsidiaries shall not exceed ~~one thousand dollars~~  
36 ~~(\$1,000)~~ fifty dollars (\$50.00) per month.

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*(C) ~~There shall be no limitation~~ The limitations on the discount for stated for state taxes under this section apply to prompt early payment of city and county gross receipts taxes collected by the director.*

SECTION 4. EFFECTIVE DATE. Section 3 of this act is effective on the first day of the calendar quarter following the effective date of this act.

*/s/J. Mayberry*