

JOINT FAVORABLE REPORT

Bill No.: House Bill 5489

AN ACT CONCERNING INTERCHANGE FEES ON ELECTRONIC PAYMENT

Title: TRANSACTIONS.

Vote Date: 4/2/2024

Vote Action: Joint Favorable Substitute

PH Date: 3/20/2024

File No.: 541

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SPONSORS OF BILL:

Finance, Revenue and Bonding Committee, Representative Holly H. Cheeseman, 37th District on behalf of the Connecticut Restaurant Association.

Co-sponsors:

Representative Kerry S. Wood, 29th District

Representative Julio Concepcion, 4th District

Representative James Sanchez, 6th District

Representative David Rutigliano, 123rd District

Representative Laura Dancho, 120th District

REASONS FOR BILL:

This bill prohibits payment card networks from including sales and use taxes on the interchange fees imposed when processing electronic payment transactions. The bill requires credit card companies to either exclude sales and use taxes from their interchange fee formula or reimburse the retailer for the same amount in the form of a rebate.

SUBSTITUTE LANGUAGE:

Makes a technical change to reference the correct chapter of statute. In line 38, strike "chapter 229" and insert "chapter 219" in lieu thereof.

RESPONSE FROM ADMINISTRATION/AGENCY:

None expressed.

NATURE AND SOURCES OF SUPPORT:

[Scott Dolch, President and Chief Executive Officer of the Connecticut Restaurant Association](#), testified on behalf of Connecticut's 8,600 restaurant and foodservice

establishments and the more than 140,000 dedicated employees within the industry, in support of House Bill 5489.

In his testimony he stated that many Connecticut restaurants are small businesses, and many of them are family run. Under the current law they are being unfairly penalized with interchange fees on every single electronic transaction at their business and it is becoming increasingly burdensome as more and more consumers shift to cashless payments. That's why we are here today asking Connecticut legislators for a simple fix: stop banks and card networks from essentially marking up their interchange fees on the backs of Connecticut's local small businesses.

The issue is important to restaurants, because an extra 1% meals and beverage tax was added in 2019. This extra one percent generated more than \$100 million for the state in FYs 2022-2023 and with this collection, it also added an additional \$2-4 million in interchange fees for our industry.

NATURE AND SOURCES OF OPPOSITION:

[Bruce Adams, President and Chief Executive Officer, Credit Union League of Connecticut,](#) highlighted that, the interchange fee is what a retailer pays a vendor to provide a service to the consumer. No one would expect a vendor to provide its services to the retailer for free. Interchange is tax deductible as a cost of doing business and the difference between these two fees is that interchange revenue is shared by the entities taking the financial risk of honoring the payments such as handling costs, fraud and bad debt costs, and all the risks involved in approving the payment.

As proposed, the bill represents a significant risk to the consumer. The payment card network would come into possession of transaction-level detail for each consumer who pays each time they pay with a card. To accurately calculate the proper interchange fee, the merchant would have to transmit detail on every item purchased exposing consumers' private purchase history to the increasing risk of a data breach.

Restricting interchange will increase fraud risk systemwide, invade the consumer's privacy, and place undue pressure on smaller business and financial institutions such as credit unions. We must preserve the well-functioning interchange system because it fuels continued investment in secure payments technology which benefits us all.

[Brian Yates, Senior Director of State Government Affairs, Electronic Transactions Association](#) testified that the payments industry has remained at the forefront of developing innovative payment technology, providing merchants and consumers with safety, security, speed, and ease for transacting electronic payments.

Over 60 similar state legislative proposals to prohibit interchange on the sales tax portion of electronic transactions have been considered between 2006 and 2023 and none have passed their respective state legislature.

Prohibiting the collection of interchange on the sales tax portion of an electronic payment is especially problematic for the reasons outlined below:

Creation of Privacy Issues: To meet the requirements of the bill, specific purchase information must be known and acquired by the payments industry. This is information we do not currently collect. If HB 5489 is implemented, each transaction purchased would have to be itemized and audited to determine the correct application of a state sales tax exemption or local tax.

Impact to Businesses: Businesses would be required to create and implement new payments systems and operational mechanisms to ensure compliance, which would be both costly and burdensome.

Should this proposal be enacted, both merchants and consumers would be negatively impacted because, as noted above, merchants would need new, yet-to-be developed, specialized terminals and software to itemize and communicate segmented data to the card networks at the time of sale.

Reported by: Jean Holloway

Date: April 5, 2024