

April 26, 2023

All Members of the Florida Senate

Re: Senate Bill 564 Relating to Interchange and Sales Tax

Dear Senator,

I write on behalf of the American Financial Services Association (AFSA)¹ to express our deep concerns with Senate Bill 564, which seeks to artificially limit interchange fees – the fees merchant banks pay to card issuing banks – on the sales tax portion of a transaction. We strongly oppose this bill, which serves simply to transfer the costs of collecting sales tax on electronic payments from retailers to financial institutions, including AFSA members.

We respectfully contend that the collection of sales tax in a retail transaction should not be the responsibility of a financial institution, simply because electronic payments are used at the point-of-sale. SB 564 is intended to remove the sales tax element from a transaction for the purposes of calculating interchange, leaving financial institutions with two options: Either absorb the cost of collecting retailers’ sales tax themselves, to the tune of millions of dollars annually, or decline to collect sales tax on electronic transactions, leaving customers to settle in a separate transaction using cash or check. Neither of these options are good ones.

Much of the debate around SB 564 has centered on whether it is technically “possible” to develop the necessary technological infrastructure to exempt sales and use taxes from interchange fee calculations. Though this remains a legitimate concern, it might be better to focus on whether the enormous investment in developing and operationalizing such an infrastructure would ultimately be justified by a “workable” system. We do not believe it will.

Experts have testified that there is no solution currently available to provide the level of detail that payment networks and issuers need to validate tax payments for consumer transactions, approve them through the payment systems, and calculate fee changes from that data. It would be unfathomably complex to develop, challenging to operationalize and may never reach the point at which the result justifies the investment.

Even if a technical solution became available, it would have significant implications for the protection of consumer data from fraud. Data protection is likely to be severely compromised, through the inevitable requirement to move the significantly larger packets of detailed consumer data needed to reconcile sales tax collection. This is at odds with a long-established and painstakingly evolved data-protection standard based on moving the minimum data commensurate with verification requirements.

¹ Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members do not provide payday or vehicle title loans.

Data breaches at large retailers are all too common. Enhanced consumer data would make richer pickings for the criminals.

In conclusion, it is self-evidently unfair for Big Box Retailers to expect financial institutions to bear their costs for the collection of sales tax on an electronic transaction. Florida's financial institutions should not be expected to provide free services for some of the largest companies in the world. We urge you to vote no on SB 564. Thank you for your consideration of our comments. If you have any questions or would like to discuss this further, please do not hesitate to contact me at (202) 469-3181 or mkownacki@afsamail.org.

Sincerely,

A handwritten signature in blue ink that reads "Matthew Kownacki". The signature is written in a cursive, flowing style.

Matthew Kownacki
Director, State Research and Policy
American Financial Services Association
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