

June 4, 2024

The Honorable J. B. Pritzker
Governor of Illinois
401 S. Spring St.
Springfield, IL 62704

Re: House Bill 4951 Relating to Interchange and Sales Tax

Dear Governor Pritzker,

I write on behalf of the American Financial Services Association (AFSA)¹ to request an Executive branch review of Section 150 of House Bill 4951, which seeks to artificially limit interchange fees – the fees merchant banks pay to card issuing banks – on the sales and excise tax, and voluntary gratuity element of an electronic transaction. We strongly oppose this section, 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. HB 4951 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 (which may require two transactions at the point-of-sale), or decline to collect sale tax on electronic transactions, leaving customers to settle in a separate transaction using cash or check. Neither of these options are good ones.

Over the last 17 years, 29 states have introduced a total of 58 bills like HB 4951, none of which have passed. Much of the debate around these bills 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

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.

be unfathomably complex to develop, challenging to operationalize, and may never reach the point at which the result justifies the investment. Nonetheless, trying to implement a payment system change— which would affect over seven million card holders in Illinois and thousands of card-issuing banks and Illinois merchants—is not feasible within a 13-month time frame.

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. 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 retailers, restauraners and others to expect financial institutions to bear their costs for the collection of sales tax on an electronic transaction. Illinois' financial institutions should not be expected to provide free services for fellow merchants. We urge you to reconsider Section 150 of Illinois HB 4951. Thank you for your consideration of our comments. If you have questions or would like to discuss this further, please do not hesitate to contact me at 805-501-8873 or erayhan@afsamail.org.

Sincerely,

A handwritten signature in black ink that reads 'Elora Rayhan'. The signature is written in a cursive style with a large, looping 'E' and 'R'.

Elora Rayhan
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