2021 SENATE BILL 572

1 AN ACT *to create* 73.17 of the statutes; **relating to:** fees imposed on merchants

2 in connection with credit card transactions and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits a "swipe fee" from being imposed against a merchant on the tax portion of a transaction when a purchase is made from the merchant using a credit card. The bill also prohibits a "swipe fee" from being imposed on the portion of any transaction that is a fee imposed by a city, village, town, or county. Any person that violates this prohibition may be required to forfeit not more than $200 for each violation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 73.17 of the statutes is created to read:

4 **73.17 Fees imposed on merchants in connection with credit card**

5 **transactions. (1)** In this section:

6 (a) "Credit card" has the meaning given in s. 59.40 (5) (a) 1.

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SENATE BILL 572   SECTION 1

1   (b) "Credit card transaction" means a sales transaction in which a customer

2   obtains property or services from a merchant by using a credit card as the means of

3   payment.

4   (c) "Merchant" means a person, located in this state, who is in the business of

5   selling property or services and who accepts credit card payment for property or

6   services sold.

7   (d) "Payment card network" means any of the following:

8   1. An entity that directly, or through licensed members, processors, or agents,

9   provides the proprietary services, infrastructure, and software that routes

10   information and data to conduct a credit card transaction authorization, clearance,

11   and settlement.

12   2. An entity that a merchant uses to accept as a form of payment a brand of

13   credit card that may be used to conduct a credit card transaction.

14   (e) "Settlement" means the transfer of funds from a customer's account to a

15   merchant upon electronic submission of finalized credit card transactions to the

16   payment card network.

17   (f) "Tax" means any of the following collected by a merchant in connection with

18   a sales transaction:

19   1. The taxes imposed under subchs. III, V, VIII, IX, X, and XI of ch. 77.

20   2. The room tax imposed under s. 66.0615.

21   3. Any fee imposed by a political subdivision under s. 66.0628.

22   **(2)** If a merchant accepts credit card payment for property or services sold, no

23   person may assess against the merchant any fee, or discount payment to the

24   merchant in connection with the use of the credit card or processing of the credit card

1   transaction, for the portion of the total transaction amount attributable to tax

2   collected by the merchant from the customer.

3   **(3)** (a) A payment card network shall deduct the amount of any tax imposed

4   from the calculation of any fee or discount payment as described in sub. (2) to each

5   credit card transaction or rebate the amount of the fee or discount payment in

6   proportion to the amount attributable to the tax or fee.

7   (b) Any deduction or rebate under par. (a) shall occur at the time of settlement,

8   except that if the merchant is unable to capture and transmit tax and fee amounts

9   at the time of settlement, the payment card network shall accept proof of tax or fee

10   amounts collected on sales subject to the fee or discount payment upon submission

11   of sales data by the merchant and promptly credit the merchant's settlement

12   account.

13   **(4)** Any person that violates sub. (2) or (3) may be required to forfeit not more

14   than $200 for each violation.

15   **SECTION 2. Initial applicability.**

16   (1) This act first applies to credit card transactions occurring on the effective

17   date of this subsection.

18   **SECTION 3. Effective date.**

19   (1) This act takes effect on the first day of the 4th month beginning after

20   publication.

21   **(END)**