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**SENATE BILL 5070**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senators Saldaña and Hasegawa

Prefiled 12/16/24.

1 AN ACT Relating to prohibiting fees on certain acts of commerce  
2 to protect tipped wages for workers while reducing the financial  
3 burden on employers; amending RCW 49.46.020; adding a new chapter to  
4 Title 19 RCW; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that the use of  
7 credit or debit cards can prevent an employee from receiving the full  
8 amount of their earned tips and gratuities. Currently some employers  
9 deduct a proportional amount of any fees the employer is assessed on  
10 a credit or debit card transaction from an employee's tip.

11 (2) The legislature also finds that credit or debit card usage in  
12 commercial transactions places an undue financial burden on merchants  
13 required to collect taxes on behalf of the state of Washington when  
14 the merchant must pay fees assessed on the taxed amount.

15 (3) Therefore, the legislature intends to bring greater  
16 transparency, clarity, and accountability to certain acts of  
17 commerce. Prohibiting all interchange fees on tips and gratuities  
18 will ensure employees receive their full earned tips and gratuities.  
19 Prohibiting all interchange fees on taxes merchants collect on behalf  
20 of the state will reduce the financial burden merchants bear on  
21 behalf of the state.

1        NEW SECTION.    **Sec. 2.**    The definitions in this section apply  
2 throughout this chapter unless the context clearly requires  
3 otherwise.

4        (1) "Acquirer bank" means a member of a payment card network that  
5 contracts with a merchant for the settlement of electronic payment  
6 transactions. An acquirer bank may contract directly with merchants  
7 or indirectly through a processor to process electronic payment  
8 transactions.

9        (2) "Authorization" means the process through which a merchant  
10 requests approval for an electronic payment transaction from the  
11 issuer.

12        (3) "Clearance" means the process of transmitting final  
13 transaction data from a merchant to an issuer for posting to the  
14 cardholder's account and the calculation of fees and charges,  
15 including interchange fees, that apply to the issuer and the  
16 merchant.

17        (4) "Credit card" means a card, plate, coupon book, or other  
18 credit device existing for the purpose of obtaining money, property,  
19 labor, or services on credit.

20        (5)(a) "Debit card" means a card or other payment code or device  
21 issued or approved for use through a payment card network to debit an  
22 asset account, regardless of the purpose for which the account is  
23 established, whether authorization is based on a signature, a  
24 personal identification number, or other means.

25        (b) "Debit card" includes a general use prepaid card, as defined  
26 in 15 U.S.C. Sec. 16931-1 as it existed on the effective date of this  
27 section.

28        (c) "Debit card" does not include paper checks.

29        (6) "Electronic payment transaction" means a transaction in which  
30 a person uses a debit card, a credit card, or other payment code or  
31 device issued or approved through a payment card network to debit a  
32 deposit account or use a line of credit, whether authorization is  
33 based on a signature, a personal identification number, or other  
34 means.

35        (7) "Gratuity" means a voluntary monetary contribution to an  
36 employee from a guest, patron, or customer in connection with  
37 services rendered and due to an employee under RCW 49.46.020(2),  
38 including all tips, gratuities, and service charges.

1 (8) "Interchange fee" means a fee established, charged, or  
2 received by a payment card network for the purpose of compensating  
3 the issuer for its involvement in an electronic payment transaction.

4 (9) "Issuer" means a person issuing a debit card or credit card,  
5 or the issuer's agent.

6 (10) "Merchant" means a person that collects and remits a tax or  
7 collects a gratuity due to an employee.

8 (11) "Payment card network" means an entity that:

9 (a) Directly or through licensed members, processors, or agents,  
10 provides the proprietary services, infrastructure, and software to  
11 route information and data for the purpose of conducting electronic  
12 payment transaction authorization, clearance, and settlement; and

13 (b) A merchant uses to accept as a form of payment a brand of  
14 debit card, credit card, or other device that may be used to carry  
15 out electronic payment transactions.

16 (12) "Person" means any individual, firm, public or private  
17 corporation, government, partnership, association, or any other  
18 organization or entity.

19 (13) "Processor" means an entity that facilitates, services,  
20 processes, or manages the debit or credit authorization, billing,  
21 transfer, payment procedures, or settlement with respect to any  
22 electronic payment transaction.

23 (14) "Settlement" means the process of transmitting sales  
24 information to the issuing bank for collection and reimbursement of  
25 funds to the merchant, and calculating and reporting the net  
26 transaction amount to the issuer and merchant for an electronic  
27 payment transaction that is cleared.

28 (15) "Tax" means any moneys collected under chapters 82.08,  
29 82.12, and 82.14 RCW.

30 (16) "Tax documentation" means documentation sufficient for the  
31 payment card network to determine the total amount of the electronic  
32 payment transaction and the tax or gratuity amount of the  
33 transaction. Tax documentation may be related to a single electronic  
34 payment transaction or multiple electronic payment transactions  
35 aggregated over a period of time. Examples of tax documentation  
36 include, but are not limited to, invoices, receipts, journals,  
37 ledgers, and tax returns filed with the department of revenue or  
38 local taxing authorities.

1        NEW SECTION.    **Sec. 3.**    (1) An issuer, a payment card network, an  
2 acquirer bank, or a processor may not receive or charge a merchant  
3 any interchange fee on the tax or gratuity amount of an electronic  
4 payment transaction if the merchant informs the acquirer bank or its  
5 designee of the tax or gratuity amount as part of the authorization  
6 or settlement process for the electronic payment transaction. The  
7 merchant must transmit the tax or gratuity amount data as part of the  
8 authorization or settlement process to avoid being charged  
9 interchange fees on the tax or gratuity amount of an electronic  
10 payment transaction.

11        (2) A merchant that does not transmit the tax or gratuity amount  
12 data in accordance with this section may submit tax documentation for  
13 the electronic payment transaction to the acquirer bank or its  
14 designee no later than 180 days after the date of the electronic  
15 payment transaction. Within 30 days after the merchant submits the  
16 tax documentation, the issuer must credit to the merchant the amount  
17 of interchange fees charged on the tax or gratuity amount of the  
18 electronic payment transaction.

19        (3) This section does not create liability for a payment card  
20 network regarding the accuracy of the tax or gratuity amount data  
21 reported by the merchant.

22        (4) It shall be unlawful for an issuer, a payment card network,  
23 an acquirer bank, or a processor to alter or manipulate the  
24 computation and imposition of interchange fees by increasing the rate  
25 or amount of the fees applicable to, or imposed upon, the portion of  
26 a credit or debit card transaction not attributable to taxes or other  
27 fees charged to the merchant to circumvent the effect of this  
28 section.

29        (5) Payment card networks shall, within two years of the  
30 effective date of this section, provide a mechanism for merchants to  
31 transmit tax or gratuity amount data as part of the electronic  
32 payment transaction process sufficient to allow acquirer banks to  
33 exclude those amounts from any interchange fee assessment.

34        **Sec. 4.**    RCW 49.46.020 and 2019 c 236 s 2 are each amended to  
35 read as follows:

36        (1) ~~((a) Beginning January 1, 2017, and until January 1, 2018,~~  
37 ~~every employer shall pay to each of his or her employees who has~~  
38 ~~reached the age of eighteen years wages at a rate of not less than~~  
39 ~~eleven dollars per hour.~~

1 ~~(b) Beginning January 1, 2018, and until January 1, 2019, every~~  
2 ~~employer shall pay to each of his or her employees who has reached~~  
3 ~~the age of eighteen years wages at a rate of not less than eleven~~  
4 ~~dollars and fifty cents per hour.~~

5 ~~(c) Beginning January 1, 2019, and until January 1, 2020, every~~  
6 ~~employer shall pay to each of his or her employees who has reached~~  
7 ~~the age of eighteen years wages at a rate of not less than twelve~~  
8 ~~dollars per hour.~~

9 ~~(d) Beginning January 1, 2020, and until January 1, 2021, every~~  
10 ~~employer shall pay to each of his or her employees who has reached~~  
11 ~~the age of eighteen years wages at a rate of not less than thirteen~~  
12 ~~dollars and fifty cents per hour.~~

13 ~~(2)(a) Beginning on January 1, 2021, and each following January~~  
14 ~~1st as set forth under (b) of this subsection, every employer shall~~  
15 ~~pay to each of his or her employees who has reached the age of~~  
16 ~~eighteen years wages at a rate of not less than the amount~~  
17 ~~established under (b) of this subsection.~~

18 ~~(b))~~ On ~~((September 30, 2020, and on))~~ each ~~((following))~~  
19 September 30th, the department of labor and industries shall  
20 calculate an adjusted minimum wage rate to maintain employee  
21 purchasing power by increasing the current year's minimum wage rate  
22 by the rate of inflation. The adjusted minimum wage rate shall be  
23 calculated to the nearest cent using the consumer price index for  
24 urban wage earners and clerical workers, CPI-W, or a successor index,  
25 for the ~~((twelve))~~ 12 months prior to each September 1st as  
26 calculated by the United States department of labor. Each adjusted  
27 minimum wage rate calculated under this subsection ~~((2)(b))~~ takes  
28 effect on the following January 1st.

29 ~~((3))~~ (2)(a) An employer must pay to its employees: ~~((a))~~ (i)  
30 All tips and gratuities; and ~~((b))~~ (ii) all service charges as  
31 defined under RCW 49.46.160 except those that, pursuant to RCW  
32 49.46.160, are itemized as not being payable to the employee or  
33 employees servicing the customer.

34 (b) An employer may not reduce an employee's tips, gratuities,  
35 and service charge by the amount of any interchange fees as defined  
36 in section 2 of this act.

37 (c) Tips and service charges paid to an employee are in addition  
38 to, and may not count towards, the employee's hourly minimum wage.

1       (~~(4)~~) (3) Beginning January 1, 2018, except as provided in RCW  
2 49.46.180, every employer must provide to each of its employees paid  
3 sick leave as provided in RCW 49.46.200 and 49.46.210.

4       (~~(5)~~) (4) The director shall by regulation establish the  
5 minimum wage for employees under the age of (~~(eighteen)~~) 18 years.

6       NEW SECTION.   **Sec. 5.** (1) An issuer, a payment card network, an  
7 acquirer bank, a processor, or other designated entity that has  
8 received the tax or gratuity amount data and violates section 3 of  
9 this act is subject to a civil penalty of \$1,000 per electronic  
10 payment transaction, and the issuer must refund the merchant the  
11 interchange fee calculated on the tax or gratuity amount relative to  
12 the electronic payment transaction. Civil penalties imposed under  
13 this section must be paid to the director of the department of labor  
14 and industries for deposit in the supplemental pension fund  
15 established in RCW 51.44.033. Penalties under this section are in  
16 addition to any other penalties or other relief provided under  
17 chapter 49.46 RCW and Title 82 RCW.

18       (2)(a) An entity, other than the merchant, involved in  
19 facilitating or processing an electronic payment transaction,  
20 including, but not limited to, an issuer, a payment card network, an  
21 acquirer bank, a processor, or other designated entity, may not  
22 distribute, exchange, transfer, disseminate, or use the electronic  
23 payment transaction data except to facilitate or process the  
24 electronic payment transaction or as required by law.

25       (b) A violation of this subsection constitutes a violation of the  
26 consumer protection act pursuant to chapter 19.86 RCW.

27       NEW SECTION.   **Sec. 6.** This act takes effect July 1, 2026.

28       NEW SECTION.   **Sec. 7.** Sections 1 through 3, 5, and 6 of this act  
29 constitute a new chapter in Title 19 RCW.

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