

SENATE BILL REPORT

SB 5070

As of January 15, 2025

Title: An act relating to prohibiting fees on certain acts of commerce to protect tipped wages for workers while reducing the financial burden on employers.

Brief Description: Concerning prohibiting fees on certain acts of commerce to protect tipped wages for workers while reducing the financial burden on employers.

Sponsors: Senators Saldaña, Hasegawa, Conway, Cortes, Fortunato, Krishnadasan, Lovelett, Nobles, Orwall, Stanford, Trudeau, Valdez, Wellman and Wilson, J..

Brief History:

Committee Activity: Labor & Commerce: 1/17/25.

Brief Summary of Bill

- Prohibits certain entities involved in processing electronic payment transactions from receiving or charging a merchant an interchange fee on the sales and use tax or gratuity amount of a transaction, and imposes a \$1,000 penalty for each violation.
- Bars an employer from reducing an employee's tips, gratuities, or service charges by the amount of any interchange fees.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Marlon Llanes (786-7423)

Background: A merchant is charged fees by certain entities, including credit card companies, that are involved in processing electronic payment transactions. One of these fees, known as an interchange fee, may range between 1.5 to 3.5 percent of the total amount of a sale. A merchant is charged an interchange fee when a customer pays with a debit or credit card.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Under the federal Fair Labor Standards Act, when tips are charged on a customer's credit card, a merchant is allowed to deduct the percentage of the interchange fee from the employee's tip.

Washington law requires an employer to pay its employees all tips, gratuities, and service charges, with limited exceptions. Washington law does not address the deduction of interchange fees from an employee's tips, gratuities, or service charges. A Department of Labor and Industries policy allows an employer to deduct interchange fees on a prorated basis based on the percentage of the credit card fee.

In Maine and California, employers are prohibited from deducting any credit card fees from tips. In 2024, the state of Illinois passed a law banning interchange fees assessed on sales taxes or tipped wages. The law is pending litigation.

Summary of Bill: An issuer, payment card network, acquirer bank, or processor is prohibited from receiving or charging a merchant an interchange fee on the sales and use tax or gratuity amount of a transaction if the merchant transmits tax or gratuity amount data as part of the electronic payment transaction process. If the merchant submits the data within 180 days of the transaction, the issuer must issue a credit to the merchant within 30 days of the submittal.

An issuer, payment card network, acquirer bank, or processor may not avoid the prohibition by increasing the amount of interchange fees on other portions of the transaction not related to taxes or other fees charged to the merchant.

An issuer, payment card network, acquirer bank, or processor that receives the tax or gratuity amount data and charges a fee or fails to provide a credit is subject to a \$1,000 civil penalty per electronic payment transaction. The issuer must also refund the merchant the interchange fees charged.

An employer is prohibited from reducing an employee's tips, gratuities, or service charges by the amount of any interchange fees.

A payment card network is required to provide a mechanism by June 30, 2028, for merchants to transmit the tax or gratuity amount data as part of the electronic payment transaction process.

Definitions are provided, including the definitions of issuer, payment card network, acquirer bank, and processor. "Interchange fee" means a fee established, charged, or received by a payment card network for the purpose of compensating the issuer for its involvement in an electronic payment transaction.

Legislative findings and intent are provided.

Appropriation: None.

Fiscal Note: Requested on January 14, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on July 1, 2026.