

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 25-0801.01 Caroline Martin x5902

HOUSE BILL 25-1282

HOUSE SPONSORSHIP

Brooks and Lindstedt,

SENATE SPONSORSHIP

Daugherty and Kirkmeyer,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PROHIBITIONS ON CERTAIN PAYMENT CARD NETWORK**
102 **PRACTICES INVOLVING ELECTRONIC PAYMENT TRANSACTIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill enacts the "Swipe Fee Fairness and Consumer Safeguards Act" (act), which prohibits a payment card network from:

- Fixing or conspiring to fix an interchange fee with, or on behalf of, a covered credit card issuer or another payment card network;
- Establishing, putting forward, or implementing a fee

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
2nd Reading Unamended
March 18, 2025

schedule that the payment card network knows, or reasonably should know, has been used by a covered credit card issuer other than the payment card network to determine the amount of an interchange fee charged or received by the covered credit card issuer in the current or previous calendar year;

- Establishing, charging, or putting forward on a fee schedule an interchange fee if the fee includes a percentage multiplied by the amount of a transaction and the fee does not exclude any amount attributable to a tax or gratuity on the transaction, or increasing fees in an attempt to or in a manner that would circumvent such interchange fee prohibition;
- Requiring a merchant that accepts credit cards that are enabled for processing over the payment card network to accept all credit cards issued by a covered credit card issuer that are enabled for processing over the payment card network;
- Distributing, publishing, or otherwise using data from an electronic payment transaction, except in certain circumstances;
- Charging a fee to a consumer or merchant related to a disputed credit card transaction until the dispute has been resolved and the consumer or merchant has been provided written notice of the determination; or
- Imposing a penalty on a merchant for setting prices in a manner that complies with state and federal law.

The bill prohibits a payment card network from establishing, putting forward, or implementing a fee schedule that the payment card network knows or reasonably should know has been used by one or more issuers other than the payment card network to determine the amount of an interchange fee received or charged in respect to a charitable contribution, unless the interchange fee does not exceed:

- 0.2% of the amount of a charitable contribution made by means of a debit card; or
- 0.3% of the amount of a charitable contribution made by means of a credit card.

If a payment card network violates the act, a merchant, consumer, or other individual or entity that is injured as a result may bring a civil action. A payment card network that is found to have violated the act as a result of a civil action other than a certified class action is liable in an amount equal to the sum of:

- The greater of:
 - The amount of actual damages sustained plus interest; or

- \$500; or
- 3 times the amount of actual damages sustained if the payment card network engaged in bad faith conduct; plus
- The costs of the action plus reasonable attorney fees.

If a payment card network is found liable in a certified class action, a successful plaintiff may recover actual damages, injunctive relief allowed by law, and reasonable attorney fees and costs.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 5-2-215 as
3 follows:

4 **5-2-215. Prohibition on certain payment card network**
5 **practices - short title - legislative declaration - definitions.** (1) **Short**
6 **title.** THE SHORT TITLE OF THIS SECTION IS THE "SWIPE FEE FAIRNESS AND
7 CONSUMER SAFEGUARDS ACT".

8 (2) **Legislative declaration.** THE GENERAL ASSEMBLY FINDS AND
9 DECLARES THAT:

10 (a) COLORADO MERCHANTS AND CONSUMERS PAID AN AMOUNT
11 ESTIMATED TO BE OVER TWO BILLION DOLLARS IN CREDIT CARD
12 INTERCHANGE FEES IN 2023 AND PAID AN AMOUNT ESTIMATED TO BE OVER
13 TWO HUNDRED MILLION DOLLARS IN INTERCHANGE FEES COLLECTED ON
14 SALES TAX IN 2023;

15 (b) INTERCHANGE FEES ACT AS AN INFLATION MULTIPLIER BY
16 ADDING TWO TO FOUR PERCENT IN ADDITIONAL COSTS TO EVERY CREDIT
17 CARD TRANSACTION A MERCHANT RUNS. HIGH INTERCHANGE FEES COST
18 THE AVERAGE FAMILY OVER ONE THOUSAND ONE HUNDRED DOLLARS IN
19 THE COST OF GOODS AND SERVICES LAST YEAR.

20 (c) IN RECENT YEARS, COLORADO RESTAURANTS HAVE BEEN
21 NEGATIVELY IMPACTED BY FACTORS INCLUDING THE COVID-19

1 PANDEMIC AND RISING COSTS FOR LABOR, FOOD, AND RENT. MORE THAN
2 FOUR HUNDRED TWENTY-FIVE COLORADO RESTAURANTS CLOSED OVER
3 THE LAST THREE YEARS, RESULTING IN AN ESTIMATED TWENTY-ONE
4 THOUSAND TWO HUNDRED FIFTY WORKERS WHO LOST THEIR JOBS.

5 (d) THE RESTAURANT INDUSTRY IS MADE UP OF HUNDREDS OF
6 THOUSANDS OF SMALL BUSINESSES THAT RUN ON DIFFERENT BUSINESS
7 MODELS. SEVEN IN TEN RESTAURANTS ARE SINGLE UNIT OPERATIONS, AND
8 NINETY PERCENT OF RESTAURANT LOCATIONS EMPLOY LESS THAN TEN
9 PEOPLE. THE INDUSTRY IS HIGHLY COMPETITIVE AND CONSTANTLY
10 CHANGING IN RESPONSE TO TRENDS AND ECONOMIC PRESSURES. THE
11 AVERAGE SMALL BUSINESS RESTAURANT RUNS ON A THREE- TO
12 FIVE-PERCENT PRE-TAX MARGIN AND MAKES ABOUT ONE MILLION
13 DOLLARS IN ANNUAL SALES.

14 (e) FOR RESTAURANT OPERATORS, ACCEPTING DEBIT AND CREDIT
15 CARDS IS IMPERATIVE TO BEST SERVING CUSTOMERS AND STAYING IN
16 BUSINESS. HOWEVER, ACCEPTING DEBIT AND CREDIT CARD PAYMENTS IS
17 ONE OF THE HIGHEST COSTS BORNE BY RESTAURANT OPERATORS, OFTEN
18 BEHIND ONLY LABOR AND FOOD. TWO PAYMENT CARD NETWORKS
19 CONTROL OVER EIGHTY PERCENT OF THE CREDIT CARD MARKETPLACE IN
20 THE UNITED STATES, FORCING MERCHANTS TO PAY THE HIGHEST
21 INTERCHANGE FEES IN THE INDUSTRIALIZED WORLD. RESTAURANT
22 OPERATORS DO NOT HAVE THE BARGAINING POWER TO NEGOTIATE THE
23 CREDIT CARD RATES IMPOSED BY THE TWO DOMINANT PAYMENT CARD
24 NETWORKS, NOR ARE RESTAURANT OPERATORS PRACTICALLY ABLE TO
25 FIND ALTERNATIVE PAYMENT PROCESSING OPTIONS.

26 (f) THIS SECTION BENEFITS COLORADO MERCHANTS AND
27 CONSUMERS BY KEEPING OVER TWO HUNDRED MILLION DOLLARS WITHIN

1 THE STATE AND STRENGTHENING LOCAL ECONOMIC ACTIVITY. THE ACT
2 WILL HELP RESTAURANTS IN COLORADO SAVE MONEY ON INTERCHANGE
3 FEES PAID ON SALES TAX AND TIPS, WHICH WILL ALLOW RESTAURANT
4 OPERATORS TO HIRE MORE EMPLOYEES, INVEST IN THEIR BUSINESSES, KEEP
5 PRICES COMPETITIVE, AND CONTRIBUTE TO THE COMMUNITIES THEY
6 SERVE.

7 (3) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
8 OTHERWISE REQUIRES:

9 (a) "ACQUIRER BANK" MEANS A MEMBER OF A PAYMENT CARD
10 NETWORK THAT CONTRACTS WITH A MERCHANT FOR THE SETTLEMENT OF
11 ELECTRONIC PAYMENT TRANSACTIONS. AN ACQUIRER BANK MAY
12 CONTRACT DIRECTLY WITH MERCHANTS OR INDIRECTLY THROUGH A
13 PROCESSOR TO PROCESS ELECTRONIC PAYMENT TRANSACTIONS.

14 (b) "AUTHORIZATION" MEANS THE PROCESS THROUGH WHICH A
15 MERCHANT REQUESTS APPROVAL FOR AN ELECTRONIC PAYMENT
16 TRANSACTION FROM THE ISSUER.

17 (c) "BAD FAITH CONDUCT" MEANS FRAUDULENT, WILLFUL,
18 KNOWING, OR INTENTIONAL CONDUCT THAT CAUSES INJURY.

19 (d) "CHARITABLE CONTRIBUTION" MEANS A CHARITABLE
20 CONTRIBUTION AS DEFINED IN 26 U.S.C. SEC. 170 (c) THAT IS MADE VIA
21 ELECTRONIC PAYMENT TRANSACTION.

22 (e) "CLEARANCE" MEANS THE PROCESS OF TRANSMITTING FINAL
23 TRANSACTION DATA FROM A MERCHANT TO AN ISSUER FOR POSTING TO
24 THE CARDHOLDER'S ACCOUNT AND THE CALCULATION OF FEES AND
25 CHARGES, INCLUDING INTERCHANGE FEES, THAT APPLY TO THE ISSUER AND
26 THE MERCHANT.

27 (f) "COVERED CREDIT CARD ISSUER" MEANS A CREDIT CARD ISSUER

1 THAT, DURING ANY POINT IN THE PREVIOUS CALENDAR YEAR, HELD
2 CONSOLIDATED WORLDWIDE BANKING AND NON-BANKING ASSETS,
3 INCLUDING ASSETS OF AFFILIATES, OTHER THAN TRUST ASSETS UNDER
4 MANAGEMENT, OF MORE THAN FIFTY BILLION DOLLARS.

5 (g) "DEBIT CARD" MEANS A CARD OR OTHER PAYMENT CODE OR
6 DEVICE ISSUED OR APPROVED FOR USE THROUGH A PAYMENT CARD
7 NETWORK TO DEBIT AN ASSET ACCOUNT AND INCLUDES A GENERAL USE
8 PREPAID CARD, AS DEFINED IN 15 U.S.C. SEC. 16931-1 ET SEQ. "DEBIT
9 CARD" DOES NOT INCLUDE PAPER CHECKS.

10 (h) "ELECTRONIC PAYMENT TRANSACTION" MEANS A
11 TRANSACTION IN WHICH A PERSON USES A DEBIT CARD, A CREDIT CARD, OR
12 OTHER PAYMENT CODE OR DEVICE ISSUED OR APPROVED THROUGH A
13 PAYMENT CARD NETWORK TO DEBIT A DEPOSIT ACCOUNT OR USE A LINE OF
14 CREDIT.

15 (i) "FEE SCHEDULE" MEANS ANY SCHEDULE, LIST, TABLE, CHART,
16 AGREEMENT, COMMUNICATION, OR OTHER DOCUMENT, WHETHER
17 PUBLICLY AVAILABLE OR NOT, THAT SETS FORTH AN AMOUNT OR FORMULA
18 FOR DETERMINING ONE OR MORE FEES.

19 (j) "GRATUITY" MEANS MONEY VOLUNTARILY GIVEN TO AN
20 EMPLOYEE FROM A GUEST, PATRON, OR CUSTOMER IN CONNECTION WITH
21 SERVICES RENDERED.

22 (k) "INTERCHANGE FEE" MEANS A FEE ESTABLISHED, CHARGED, OR
23 RECEIVED BY A PAYMENT CARD NETWORK FOR THE PURPOSE OF
24 COMPENSATING THE ISSUER FOR ITS INVOLVEMENT IN AN ELECTRONIC
25 PAYMENT TRANSACTION.

26 (l) "ISSUER" MEANS A PERSON ISSUING A DEBIT CARD OR CREDIT
27 CARD OR THE PERSON'S AGENT.

1 (m) "MERCHANT" MEANS A PERSON THAT ACCEPTS ELECTRONIC
2 PAYMENT TRANSACTIONS AND COLLECTS AND REMITS A TAX.

3 (n) "PAYMENT CARD NETWORK" MEANS AN ENTITY THAT:

4 (I) DIRECTLY OR THROUGH LICENSED MEMBERS, PROCESSORS, OR
5 AGENTS PROVIDES THE PROPRIETARY SERVICES, INFRASTRUCTURE, AND
6 SOFTWARE TO ROUTE INFORMATION AND DATA FOR THE PURPOSE OF
7 CONDUCTING ELECTRONIC PAYMENT TRANSACTION AUTHORIZATION,
8 CLEARANCE, AND SETTLEMENT; AND

9 (II) A MERCHANT USES TO ACCEPT AS A FORM OF PAYMENT A
10 BRAND OF DEBIT CARD, CREDIT CARD, OR OTHER DEVICE THAT MAY BE
11 USED TO CARRY OUT ELECTRONIC PAYMENT TRANSACTIONS.

12 (o) "PROCESSOR" MEANS AN ENTITY THAT FACILITATES, SERVICES,
13 PROCESSES, OR MANAGES THE DEBIT OR CREDIT AUTHORIZATION, BILLING,
14 TRANSFER, PAYMENT PROCEDURES, OR SETTLEMENT WITH RESPECT TO
15 ANY ELECTRONIC PAYMENT TRANSACTION.

16 (p) "SETTLEMENT" MEANS THE PROCESS OF TRANSMITTING SALES
17 INFORMATION TO THE ISSUING BANK FOR COLLECTION AND
18 REIMBURSEMENT OF FUNDS TO THE MERCHANT AND CALCULATING AND
19 REPORTING THE NET TRANSACTION AMOUNT TO THE ISSUER AND
20 MERCHANT FOR AN ELECTRONIC PAYMENT TRANSACTION THAT IS
21 CLEARED.

22 (q) "TAX" MEANS ANY SALES, USE, OCCUPATION, OR EXCISE TAX
23 IMPOSED BY THE STATE OR A UNIT OF LOCAL GOVERNMENT IN THE STATE.

24 (4) **Prohibition on certain payment card network practices.** A
25 PAYMENT CARD NETWORK, WHETHER DIRECTLY OR THROUGH AN AGENT,
26 ACQUIRER BANK, PROCESSOR, CONTRACT, REQUIREMENT, CONDITION,
27 PENALTY, TECHNOLOGICAL SPECIFICATION, OR INDUCEMENT, SHALL NOT:

1 (a) FIX OR CONSPIRE TO FIX AN INTERCHANGE FEE WITH, OR ON
2 BEHALF OF, A COVERED CREDIT CARD ISSUER OR ANOTHER PAYMENT CARD
3 NETWORK;

4 (b) ESTABLISH, PUT FORWARD, OR IMPLEMENT A FEE SCHEDULE
5 THAT THE PAYMENT CARD NETWORK KNOWS, OR REASONABLY SHOULD
6 KNOW, HAS BEEN USED BY A COVERED CREDIT CARD ISSUER OTHER THAN
7 THE PAYMENT CARD NETWORK TO DETERMINE THE AMOUNT OF AN
8 INTERCHANGE FEE CHARGED OR RECEIVED BY THE COVERED CREDIT CARD
9 ISSUER IN THE CURRENT OR PREVIOUS CALENDAR YEAR;

10 (c) ESTABLISH, CHARGE, OR PUT FORWARD ON A FEE SCHEDULE AN
11 INTERCHANGE FEE IF:

12 (I) THE FEE IS OR INCLUDES A PERCENTAGE MULTIPLIED BY THE
13 GROSS DOLLAR AMOUNT OF A TRANSACTION CONDUCTED WITH A DEBIT
14 CARD OR CREDIT CARD; AND

15 (II) THE FEE DOES NOT EXCLUDE FROM THE GROSS DOLLAR
16 AMOUNT OF THE TRANSACTION ANY AMOUNT ATTRIBUTABLE TO A TAX OR
17 GRATUITY ON THE TRANSACTION;

18 (d) INCREASE THE RATE OR AMOUNT OF FEES THAT APPLY TO THE
19 PORTION OF A TRANSACTION OTHER THAN THE PORTION DESCRIBED IN
20 SUBSECTION (4)(c)(II) OF THIS SECTION IN AN ATTEMPT TO OR IN A
21 MANNER THAT WOULD CIRCUMVENT THE PROHIBITION SET FORTH IN
22 SUBSECTION (4)(c) OF THIS SECTION;

23 (e) REQUIRE A MERCHANT THAT ACCEPTS CREDIT CARDS THAT ARE
24 ENABLED FOR PROCESSING OVER THE PAYMENT CARD NETWORK TO
25 ACCEPT ALL CREDIT CARDS ISSUED BY A COVERED CREDIT CARD ISSUER
26 THAT ARE ENABLED FOR PROCESSING OVER THE PAYMENT CARD NETWORK;

27 (f) DISTRIBUTE, PUBLISH, OR OTHERWISE USE DATA FROM AN

1 ELECTRONIC PAYMENT TRANSACTION, EXCEPT TO:

2 (I) PROCESS THE ELECTRONIC PAYMENT TRANSACTION;

3 (II) MONITOR FOR, DETECT, OR PREVENT FRAUD;

4 (III) SUPPORT LOYALTY, REWARDS, OR PROMOTIONAL OFFERS;

5 (IV) TAILOR PRODUCTS AND SERVICES TO SERVE CUSTOMERS'

6 NEEDS; AND

7 (V) OTHERWISE COMPLY WITH STATE OR FEDERAL LAW;

8 (g) CHARGE A FEE TO A CONSUMER OR MERCHANT RELATED TO A

9 DISPUTED CREDIT CARD TRANSACTION UNTIL THE DISPUTE HAS BEEN

10 RESOLVED BY A DETERMINATION THAT THE CONSUMER OR MERCHANT IS

11 LIABLE FOR THE TRANSACTION AND THE CONSUMER OR MERCHANT HAS

12 BEEN PROVIDED WRITTEN NOTICE OF THE DETERMINATION; OR

13 (h) IMPOSE A PENALTY ON A MERCHANT FOR SETTING PRICES IN A

14 MANNER THAT COMPLIES WITH STATE AND FEDERAL LAW.

15 (5) **Limits on network fee-setting for charitable contributions.**

16 A PAYMENT CARD NETWORK, WHETHER DIRECTLY OR THROUGH AN

17 AGENT, ACQUIRER BANK, PROCESSOR, CONTRACT, REQUIREMENT,

18 CONDITION, PENALTY, TECHNOLOGICAL SPECIFICATION, OR INDUCEMENT,

19 SHALL NOT ESTABLISH, PUT FORWARD, OR IMPLEMENT A FEE SCHEDULE

20 THAT THE PAYMENT CARD NETWORK KNOWS OR REASONABLY SHOULD

21 KNOW HAS BEEN USED BY ONE OR MORE ISSUERS OTHER THAN THE

22 PAYMENT CARD NETWORK TO DETERMINE THE AMOUNT OF AN

23 INTERCHANGE FEE RECEIVED OR CHARGED IN RESPECT TO A CHARITABLE

24 CONTRIBUTION, UNLESS THE INTERCHANGE FEE DOES NOT EXCEED:

25 (a) TWO-TENTHS OF ONE PERCENT OF THE AMOUNT OF A

26 CHARITABLE CONTRIBUTION MADE BY MEANS OF A DEBIT CARD; OR

27 (b) THREE-TENTHS OF ONE PERCENT OF THE AMOUNT OF A

1 CHARITABLE CONTRIBUTION MADE BY MEANS OF A CREDIT CARD.

2 (6) **Penalties.** (a) If a PAYMENT CARD NETWORK VIOLATES THIS
3 SECTION, A MERCHANT, CONSUMER, OR OTHER INDIVIDUAL OR ENTITY
4 THAT IS INJURED AS A RESULT OF THE VIOLATION MAY BRING A CIVIL
5 ACTION AGAINST THE PAYMENT CARD NETWORK. EXCEPT IN A CERTIFIED
6 CLASS ACTION, AND NOTWITHSTANDING ANY OTHER LAW, ANY PAYMENT
7 CARD NETWORK THAT, IN A CIVIL ACTION, IS FOUND TO HAVE VIOLATED
8 THIS SECTION IS LIABLE IN AN AMOUNT EQUAL TO THE SUM OF:

9 (I) THE GREATER OF:

10 (A) THE AMOUNT OF ACTUAL DAMAGES SUSTAINED, INCLUDING
11 PREJUDGMENT INTEREST OF EITHER EIGHT PERCENT PER YEAR OR AT THE
12 RATE PROVIDED IN SECTION 13-21-101, WHICHEVER IS GREATER, FROM
13 THE DATE THE CLAIM ACCRUED;

14 (B) FIVE HUNDRED DOLLARS; OR

15 (C) THREE TIMES THE AMOUNT OF ACTUAL DAMAGES SUSTAINED,
16 IF IT IS ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE THAT THE
17 PAYMENT CARD NETWORK ENGAGED IN BAD FAITH CONDUCT; PLUS

18 (II) IN THE CASE OF ANY SUCCESSFUL ACTION TO ENFORCE SAID
19 LIABILITY, THE COSTS OF THE ACTION TOGETHER WITH REASONABLE
20 ATTORNEY FEES AS DETERMINED BY THE COURT.

21 (b) IN A CASE CERTIFIED AS A CLASS ACTION, A SUCCESSFUL
22 PLAINTIFF MAY RECOVER ACTUAL DAMAGES, INJUNCTIVE RELIEF ALLOWED
23 BY LAW, AND REASONABLE ATTORNEY FEES AND COSTS.

24 (c) ANY PERSON WHO BRINGS AN ACTION UNDER THIS SECTION
25 THAT IS FOUND BY THE COURT TO BE FRIVOLOUS, GROUNDLESS, AND IN
26 BAD FAITH, OR FOR THE PURPOSE OF HARASSMENT, SHALL BE LIABLE TO
27 THE DEFENDANT FOR THE COSTS OF THE ACTION TOGETHER WITH

1 REASONABLE ATTORNEY FEES AS DETERMINED BY THE COURT.

2 (7) **Antitrust authority.** NOTHING IN THIS SECTION LIMITS OR
3 OTHERWISE AFFECTS THE ATTORNEY GENERAL'S ANTITRUST AUTHORITY
4 PURSUANT TO ARTICLE 4 OF TITLE 6.

5 (8) **Severability.** IF ANY PROVISION OF THIS SECTION OR THE
6 APPLICATION OF THIS SECTION TO ANY PERSON OR CIRCUMSTANCE IS HELD
7 INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR
8 APPLICATIONS OF THIS SECTION OR THIS CODE THAT CAN BE GIVEN EFFECT
9 WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE
10 PROVISIONS OF THIS SECTION ARE DECLARED TO BE SEVERABLE.

11 **SECTION 2. Act subject to petition - effective date.** This act
12 takes effect November 7, 2025; except that, if a referendum petition is
13 filed pursuant to section 1 (3) of article V of the state constitution against
14 this act or an item, section, or part of this act within the ninety-day period
15 after final adjournment of the general assembly, then the act, item,
16 section, or part will not take effect unless approved by the people at the
17 general election to be held in November 2026 and, in such case, will take
18 effect on the date of the official declaration of the vote thereon by the
19 governor.