

June 21, 2024

**Honorable Member of the Pennsylvania Legislature
Pennsylvania State Capitol
Harrisburg, PA 17120**

Re: Comments in Opposition of HB 2394

Dear Member of the Pennsylvania Legislature,

On behalf of the Electronic Transactions Association (“ETA”), the leading trade association representing the payments industry, I appreciate the opportunity to share our broad concerns with HB 2394. The payments industry has remained at the forefront of developing innovative payment technology, providing merchants and consumers with safety, security, speed, and ease for transacting electronic payments, not to mention increasingly numerous options for doing so.

Governmental intervention in such a complicated ecosystem, such as a prohibition on collecting interchange on the sales tax portion of electronic payment transactions, threatens innovation and system security, that is funded in part, through the collection of interchange. The unworkable nature of the proposal is emphasized by the fact that over 40 similar proposals to prohibit interchange on the sales tax portion of electronic transactions have been considered between 2006 and 2023 and all but one have failed to pass their respective state legislature. The potential unintended consequences of the swift passage of interchange sales tax in Illinois is yet to be seen with an implementation date not until 2025.

The threat of the potential prohibition on collecting interchange on the sales tax portion of an electronic payment is troubling for the reasons outlined below:

New Infrastructure Required: The proposed system would be a radical departure from the current electronic payments system used by merchants and consumers across the United States. System-wide changes could potentially take years of design, testing and input from stakeholders to ensure feasibility and compatibility. HB 2394 would upend the current payments infrastructure and place new undue burdens on small business and retailers. HB 2394 would upend the current payments infrastructure and place new undue burdens on small business and retailers. When a retailer makes a sale using a customer’s electronic payment card, the system that processes the transaction recognizes only the final purchase amount on which the merchant discount fee is based. The system transmits neither information regarding the product, nor services sold, nor the amount of sales tax collected.

Impact to Consumers: Proponents of HB 2394 often comment that removing sales tax from interchange would save consumers money, however, there is obligation on the part of merchants to pass along any savings from HB 2394 to consumers. Similarly, consumers could be required to

pay for every purchase through multiple transactions and would immediately feel the inconvenience and inefficiencies of upending the payments ecosystem.

Effect on Small Businesses: While big box retailers may be able to adjust their systems more readily to comply with the bill's requirement of providing additional sales tax information, small merchants who currently use a point-of-sale (POS) terminal with more limited functionality would need new software and, in most cases, new hardware. The ability for small businesses to offer a multitude of payment options is critical to their ability to compete with big-box retailers, give their customers the options they desire, and remain flexible in times of crisis.

Creation of Privacy Issues: To meet the requirements of the bill, specific purchase information must be known and acquired by the payments industry. This is information we do not currently collect. If HB 2394 is implemented, each transaction purchased would have to be itemized and audited to determine the correct application of a state sales tax exemption or local tax. This specific purchase information or SKU level data would be required to determine with certainty that the correct state and local sales tax has been applied or exempted to the correct items by the retailer. Therefore, consumers would lose the existing privacy related to their specific purchases.

Conclusion: The creation of this new payment network would result in negative implications for both small businesses and consumers. Small business owners would bear the brunt of the burden of implementing the new requirements and consumers would end up paying increased prices to pay for the implementation of a new payment network.

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We appreciate you taking the time to consider these important issues. If you would like to discuss any aspect of our comments, please contact me or ETA Executive Vice President Scott Talbott at Stalbott@electran.org.

Respectfully Submitted,



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