ELECTRONIC TRANSACTIONS ASSOCIATION
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March 9, 2020

Chairman Dennis Powers
House Commerce Subcommittee on Banking and Investments
425 5th Avenue North
Suite 425 Cordell Hull Bldg.
Nashville, TN 37243

Re: ETA Opposition to House Bill 1706

Dear Chairman Powers:

On behalf of our membership, we would like to express opposition to House Bill 1706, which imposes sales tax on money transmission transactions in the state of Tennessee. **<u>If enacted, House Bill 1706 would be harmful to consumers, Tennessee businesses, the unbanked and underbanked, law enforcement, and military stationed in Tennessee and their spouses.</u>**

The Electronic Transactions Association ("ETA") is the leading trade association for the payments industry, representing over 500 companies that offer electronic transaction processing products and services. ETA's members include financial institutions, mobile payment service providers, mobile wallet providers, and non-bank online lenders that make commercial loans, primarily to small businesses, either directly or in partnership with other lenders. ETA member companies are creating innovative offerings in financial services, revolutionizing the way commerce is conducted with safe, convenient, and rewarding payment solutions and lending alternatives.

Bill Overview

House Bill 1706 would impose sales tax on all transmissions of money originating in Tennessee to a location outside of the United States or its territories.

The bill would require that revenues generated by the tax are deposited into a special account in the state general fund overseen by the state treasurer and allocated equally to the general fund, all counties and metropolitan governments, the K-12 education teacher compensation fund, and the Tennessee peace officer standards and training commission.

The bill would provide a refund mechanism requiring the individual who paid the tax to submit an application that includes the applicant's social security number, tax identification number, proof of taxes paid and any additional information the department may require. This refund mechanism exits only once a year within a 30-day window from June 1 to June 30.

The Harmful Effects

Consumers count on money transmitters for a number of services including, but not limited to, bill payment, online and app-based peer-to-peer transfers, domestic and international remittances, stored value (prepaid) cards, and other devices which can serve as a substitute or supplement for

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holding funds in a bank checking account. According to the U.S. Treasury's 2015 National Money Laundering Risk Assessment, over one-quarter of U.S. households use non-bank financial institutions, including money transmitters. Many consumers use these services as integral parts of their daily lives and additional fees can quickly erode limited funds for consumers. Specifically, many prepaid card providers are required to be licensed as money transmitters for purposes of reloading cards. This bill would have an enormous negative effect on the growing unbanked and underbanked population in Tennessee.

The tax is an obstacle for innovation as well. New and innovative offerings such as mobile based peer-to-peer payment applications are often offered for no cost. These applications are often used to send small amounts of money between consumers. If this bill to pass, the imposition of sales tax would be detrimental to the service offered to consumers.

This bill represents a significant tax on money transfer transactions, which will make these services more expensive and disproportionately harm a segment of the Tennessee population which may be less able to absorb added costs. Many consumers who use money transmission services come from modest means and will stretch budgets and cause significant hardship. This tax is likely to add up quickly for those who use international wire services, or peer to peer payment platforms routinely such the families of military who send money to their spouses stationed overseas.

For those Tennessee residents who wish to obtain a refund for the taxes imposed by this bill, the requirement to hold receipts and apply for refunds is likely to dissuade many consumers from obtaining the refund. For those that do obtain a refund, while the tax may be refunded the time it takes to obtain those refunds would still be lost.

Current Regulatory Framework Is Sufficient

Federal and state law already provide an extensive regulatory framework designed to root-out and stop money laundering as well as document individuals who use money transmitters and ensure those records are preserved for use by law enforcement as necessary. On the federal level, the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.* and its implementing regulations 31 C.F.R. Chapter X, requires money transmitters to register with the Financial Crimes Enforcement Network ("FinCEN"), and have effective anti-money laundering compliance programs in place including maintaining records of customer identity for certain funds transfers of $3,000 or more. Additionally, money transmitters must also file Suspicious Activity Reports ("SARs") with FinCEN for transactions which are conducted or attempted, at or through the money transmitter, and which involves or aggregates funds or assets of $2,000 or more and the money transmitter knows, suspects, or has reason to suspect that the transaction is suspicious and file Currency Transaction Reports ("CTRs") for transactions involving more than $10,000 in cash.

In addition to federal laws, Tennessee has a robust state licensing program for money transmitters. Tennessee law requires that money transmitter licensees make, keep, and preserve books, accounts, and records for a minimum of three years, enable regulators to view into money transmission transactions conducted by licensees, and enable licensees to work with law enforcement at all levels to help detect and prevent illegal and criminal activities from being facilitated by the use of money transmitters. Combined with the federal requirements, the formal money transmitting licensing system helps track money transmission activity.

If House Bill 1706 were to be enacted, it is possible that many individuals could turn to more informal or unregulated networks which are unmonitored, thereby hampering the efforts of law enforcement to detect and prevent money laundering and terrorist financing.

Conclusion

As the trade association of the payments industry, ETA stands in opposition to House Bill 1706 because, if enacted, it would be harmful to consumers, Tennessee businesses, the unbanked and underbanked, law enforcement, and military stationed in Tennessee and their spouses. As such, the negative impact greatly dwarfs the benefits, if any, of such a tax.

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We appreciate you taking the time to consider these important issues. If you have any questions or wish to discuss any issues, please contact me or ETA Senior Vice President, Scott Talbott at Stalbott@electran.org.

Respectfully submitted,

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Cc: Members of the Senate Commerce and Labor Committee
Senator Paul Bailey