

February 24, 2023

The Honorable Carden Summers
Chairman, Banking and Financial Institutions Committee
Georgia Senate
327-B CLOB
Atlanta, Georgia 30334

RE: Opposition to S.B. 126

Chairman Summers, Vice Chair Kennedy and Distinguished Members of the Senate Banking and Financial Institutions Committee,

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 leading to our opposition of S.B. 126. This legislation would undermine the current payments infrastructure and create an isolated payments island in Georgia. The legislation compromises consumer privacy and adds additional burdens on to Georgia small businesses.

Creates Privacy Issues. SB 126 places the burden on the payments industry to “exclude taxes from the calculation of interchange fees specific to each payment card transaction” or “refund” an “amount of interchange fee proportionate to the amount attributable to the taxes.” To meet this requirement, the specific purchase information must be known and acquired by the payments industry. This is information we do not currently collect. 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.

Determining that the correct sales tax has been applied to the correct item is sometimes an onerous process. For example, the state of Georgia does not require sales tax on grocery items, however this state exemption does not apply to any local taxes. Moreover, the state food sales tax exemption does not apply to prepared food, alcoholic beverages, dietary supplements, prescription or over-the-counter drugs, or tobacco. To complicate the matter, many non-profits are exempt from Georgia sales tax. If S.B. 126 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. Georgia consumers will likely not appreciate third parties inspecting and investigating the purchases they make.

The bill proposes a \$1,000 fine per violation that could provide bad actors ample incentive to game the newly proposed payment system. The legislation directs the fines paid by the payments industry for any mistakes to the retailer and not to the local taxing authority, which is usually the norm. To ensure system integrity under S.B. 126, a detailed examination of the transactions and any applicable sales tax will be required to prevent potential issues.

Permanent Price Controls. S.B. 126 states in pertinent part: “It shall be unlawful to alter or manipulate the computation and imposition of interchange fees by increasing the rate or amount

of the fees applicable to or imposed upon the portion of a credit or debit card transaction not attributable to taxes or other fees charged to the retailer to circumvent the effect of this Code section.” This price control section of the bill is troubling as its application would cap fees in perpetuity despite potential future increased costs for changing technology needs or regulatory requirements.

Increased Burdens on Retailers. S.B. 126 would upend the current payments infrastructure and place new undue burdens on small business and retailers. This bill will create two payment systems for the retailer which would be highly cumbersome to maintain. Since there are no direct fees on cash or check purchases, sales tax on those transactions would have to be accounted for by the retailer separately from electronic payments made by credit or debit card under this new payments system.

The cost of installing new terminals to implement the new payments system implemented by S.B. 126 would impose an extreme burden on small businesses to rebuild their current payment systems, adding an additional burden to retailers. Moreover, the state of Georgia allows retailers to pass along the costs of a card transaction to the consumers in the form of a surcharge. S.B. 126 does not have language that removes this surcharge allowance if passed. Therefore, if this bill is implemented with a new payments structure, retailers would still be allowed to levy surcharges to consumers creating a potential for “double dipping”.

Given how the uncertain inflationary economy continues to threaten the survival of Georgia small businesses, now is not the time to pass legislation that would unravel the current payments structure in Georgia and compromise consumer transaction privacy. ETA urges the committee to reject S.B. 126 in its current form and welcomes the opportunity to collaborate with the sponsor and proponents of the legislation to develop a legislative proposal that all parties can support.

Thank you for the opportunity to participate in the discussion on this important issue. If you have any additional questions, you can contact me or ETA Senior Vice President, Scott Talbott at stalbott@electran.org.

Respectfully Submitted,



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