

March 12, 2019

Chairman Timothy Hill
House Commerce Committee
425 5th Avenue North
Suite 500 Cordell Hull Bldg.
Nashville, TN 37243

Re: ETA Opposition to House Bill 562 – Money Transmission Tax

Dear Chairman Hill:

On behalf of our membership, we would like to express opposition to House Bill 562, which imposes a tax on money transmission transactions in the state of Tennessee. **If enacted, House Bill 562 would be harmful to consumers, Tennessee businesses, the unbanked and underbanked, law enforcement, and military stationed in Tennessee and their spouses.**

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 562 would require that money transmitters ask to see from each customer a Tennessee driver license, or a license from a state where the standards are at least as strict as Tennessee’s. For those that do not produce one of those types of licenses, the licensee must collect a fee per transaction of \$10 and 1% of the amount of any transaction over \$500. The definition includes international transmissions originating in Tennessee.

Licensees would be required to provide a notice to consumers that they may file for a refund with the state. Refunds are available if consumers file within certain timeframes (quarterly). Consumers must apply directly to the state. This bill has an implementation data of January 1, 2020.

The bill would provide for compensation for money transmission licensees for collecting and remitting the fee. That amount would be 1% of the fee collected. The bill would allow for the Department of Revenue to retain 1% for administration costs.

The bill would establish a money laundering prevention fund where fees would be used and states that 50% of those fees would be send to the United States Department of Homeland Security for the purpose of securing the southern border of the United States.

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 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. This bill would have an enormous negative effect on the growing unbanked and underbanked population in Tennessee.

The fee is an obstacle for innovation as well. New and innovative offerings such as 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 requirement to include a \$10 fee 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 fee is likely to add up quickly for those who use international wire services, or peer to peer payment platforms routinely such as the families of military who send money to their spouses stationed overseas.

For those Tennessee residents who wish to obtain a refund for the fees required 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 cost of the fees may be refunded the time it takes to obtain those refunds would still be lost and this bill would institute a system where Tennessee residents are providing interest free loans to the state.

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 562 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 562, 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 fee.

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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 House Commerce Committee
Representative Bruce Griffey