HB 171 WILL CAUSE CHAOS FOR ALASKA SMALL BUSINESSES & CONSUMERS

THE LEGISLATION

The Alaska legislature is considering a proposal, HB 171, that would carve out how the sales tax and tip portions of credit and debit transactions are processed — disrupting a system that has become the backbone of modern commerce. With businesses and consumers overwhelmingly relying on electronic payments for security, convenience and efficiency, this proposal, which bans sales tax and tips from interchange, threatens to create chaos across the state.

HB 171 HARMS CONSUMERS & SMALL BUSINESSES

Small businesses would need to spend thousands of dollars or more to upgrade their point-of-sale technology and deal with new accounting headaches, like running two different transactions — one for the cost of goods and one for the sales tax and tip — while their larger competitors reap the benefits of the change.

Consumers could have to pay for sales tax and tip in cash if the bill moves forward, and could see a loss of privacy as more information about what consumers are purchasing will be required to be shared. What's more, because interchange is what makes rewards and points possible for consumers, reductions to interchange will also reduce the rewards consumers receive.

Tipped workers would see their livelihoods negatively impacted when consumers are required to tip in cash, a particularly problematic scenario for gig workers who rely on electronic tips as part of their wages.

Local banks and credit unions would be put at a disadvantage against national competitors as a ruling on similar legislation in Illinois suggests the law might only apply to state-chartered community banks and credit unions.

The state would need to use precious resources to defend legislation that is clearly pre-empted by federal law.

A MASSIVE HANDOUT TO CORPORATE MEGA-STORES

This legislation is being pushed in states across the country by corporate retailers and mega-stores like Amazon, Walmart, Target and Home Depot that are seeking to shift costs to consumers, small businesses and banks.

If corporate mega-stores can prevent paying for the full cost of credit card processing services, it will amount to millions of dollars in increased profits but shift the costs and burdens to everyone else, **making it harder for Main Street businesses to compete and local financial institutions to serve their communities.**

GUARD YOUR CARD

AVOID CREDIT CARD CHAOS

The Alaska state legislature is considering legislation that will upend the way credit and debit cards work – creating confusion for consumers, higher cost for small businesses, and a loss of purchase privacy. The legislation would create a carveout so the tax of an overall purchase is exempt from card processing costs known as interchange.

FLAWS WITH THE LEGISLATION

1

It's Illegal.

The legislation violates numerous federal laws designed to protect our nation's safe and sound banking system. The U.S. Office of the Comptroller of the Currency (OCC) filed an amicus brief in 2024 against this legislation saying, "It is an ill-conceived, highly unusual, and largely unworkable state law that threatens to fragment and disrupt this efficient and effective system" while also leading to increased fraud.

2

Your private purchases are no longer private.

Additional information about your purchases will be shared, reducing the privacy consumers have today.

3

Chaos and hassle with every purchase.

Under this legislation, consumers could be forced to pay sales tax in cash or check. Purchases will require two transactions – one for the goods or services and another for taxes. As retailers look to eliminate the hassle of multiple transactions or filing for monthly refunds, some may be forced to require that tax be paid in cash.

4

New costs for small businesses.

Small businesses will bear the cost burden of complying with this legislation, whether through the purchase of new equipment or additional time spent collecting paperwork to track transactions.

5

Easy online sales no longer available.

Vendors selling online could decide doing business in the state is not worth the hassle and expense of complying with this radical change to commerce.

LEARN MORE

GuardYourCard.com/Alaska

Doing Business in Cash is More Expensive and Less Convenient than Electronic Payments

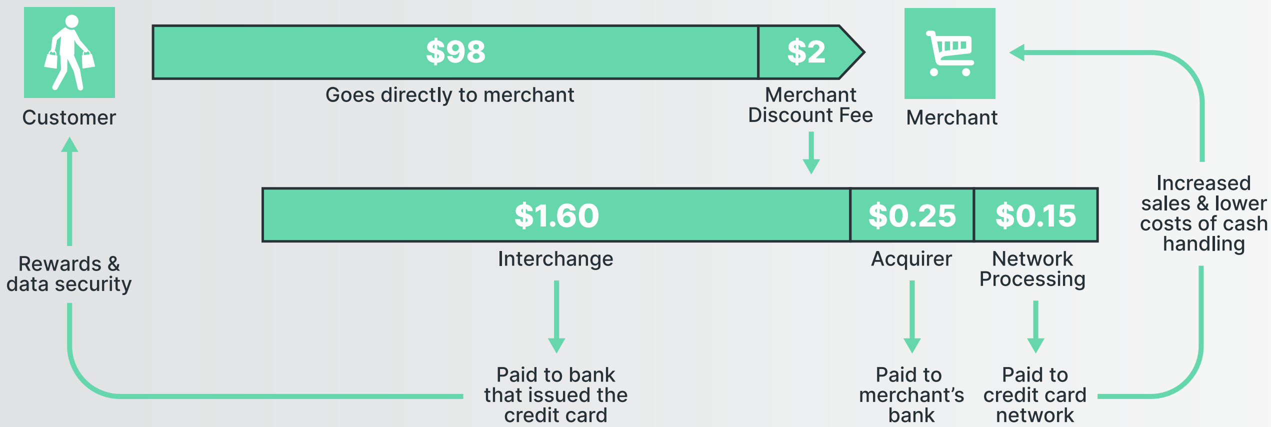
Interchange Benefits Consumers & Businesses

WHAT IS INTERCHANGE?

Businesses pay a percentage of each purchase — less than 2% on average — for the ability to process credit and debit card transactions.

This percentage, called interchange, protects small businesses and consumers from risks of non-payment and fraud. It also ensures transactions go through quickly and seamlessly without the hassles, inconveniences, and costs of doing business with cash or check. Additionally, interchange is what funds the rewards programs consumers rely upon.

HOW INTERCHANGE WORKS



The National Federation of Independent Businesses (NFIB) noted "the increase in sales that a business realizes when they start credit cards will typically more than make up for their processing fees, so they come out ahead."

https://electronicpaymentscoalition.org/2024/09/05/nfib-the-real-problems-facing-small-businesses/

THE COSTS OF DOING BUSINESS IN CASH OUTWEIGH THE COSTS OF INTERCHANGE SERVICE:

The IHL Group, a global research and advisory firm for the retail and hospitality industry, issued a report that found the cost associated with handling cash payments can run from 4.7% on the low end to more than 15.5% for bars and restaurants — significantly higher than the average cost of accepting credit cards, which has remained approximately 2% for more than a decade.

The number of businesses and consumers who do business exclusively with debit and credit cards is on the rise because of the costs and hassles of doing business in cash:

- *Fewer businesses and consumers are wanting to have cash on hand because of safety issues with robberies, theft and embezzlement.* ***Without cash, theft and losses from theft go down.***
- ***Mistakes counting cash*** *at the register add to costs.*
- *Hours spent handling and counting cash cost staff time,* ***as does the transport and delivery of cash.*** *The National Association of Convenience Stores, in an article titled "The Hidden Costs of Cash Management," concluded convenience stores pay employees 15-20 hours a week to count cash – totaling between $11,177 and $14,903 each year.*

ALASKA'S NEWS SOURCE

'I put everything into this': Anchorage business owner picks up the pieces after costly burglary.

"During the early hours of Sunday, Dec. 29, a man can be seen breaking into [Basanti] Dogra's business on Northern Lights Boulevard only two weeks after she moved in [...] 'I put everything into this business,' Dogra said. 'It's only been a year since I sold my townhouse. I literally put everything into this business and to have it taken is just so traumatizing"

January 6, 2025

The New York Times

Businesses going "cashless" are on the rise because of the costs and hassles associated with doing business in cash.

"At the Death Valley and Nevada parks, rangers collected $22,000 in cash, which ended up costing over $40,000 in handling costs when factoring in the use of an armored car and time spent counting money and processing paperwork."

March 21, 2024

5 BENEFITS RETAILERS & CONSUMERS RECEIVE FROM ELECTRONIC PAYMENTS

1. Accepting cards **increases sales and profits** for retailers.
2. Unlike checks, electronic transactions **guarantee merchants are paid for purchases made.**
3. Cards save consumers **valuable time** and make retail transactions **more efficient.**
4. Merchants **pay less for accepting cards** than for accepting cash or checks and are **not responsible for fraud or insufficient funds.**
5. **Consumers build up rewards** they can use to pay for essential goods like gas and groceries – or to save for a family vacation or other big-ticket items.

HB 171 Targets Alaska's Local Banks and Credit Unions

HB 171 disproportionately impacts Alaska banks and gives national banks a competitive edge.

A ruling in the U.S. District Court in Illinois found that legislation similar to the proposal in Alaska is pre-empted by national law that regulates national financial institutions. As a result, the bill would only impact local banks and credit unions.

While national banks would be exempt, local, community banks and credit unions would need to comply – and face stiff penalties of $1,000 per transaction if they make any mistakes complying with a law their national competitors won't have to deal with.

Corporate retailers are pushing legislation to pad their profits, but it is Alaska's banks, credit unions, and small business that pay the price.

ALASKA BANKS & CREDIT UNIONS NEGATIVELY IMPACTED BY HB 171

- First Bank Alaska
- Credit Union 1
- Northrim Bank
- Denali State Bank
- Mt. McKinley Bank

CORPORATE RETAILERS THAT PROFIT FROM HB 171

amazon
Walmart
THE HOME DEPOT
TARGET

PUT ALASKA'S BANKS FIRST. OPPOSE HB 171.

MYTH *vs.* FACT

Corporate Mega-Stores are Motivated by Profits, Not the Interests of Small Businesses and Consumers.

Get The Facts On Interchange Before You Act.

INTERCHANGE MYTHS	REALITY
Interchange fees have gone up.	The interchange service charge has remained flat for over ten years. The only thing that has gone up are sales for businesses, facilitated by interchange services as more businesses turn to electronic solutions.
A reduction in interchange will benefit consumers.	When reductions to interchange were passed on debit cards in Congress, none of the savings were passed on to consumers. Instead, these savings helped drive record profits for corporate mega-stores, and now they want more.
This is about making national banks and credit card companies pay more of the costs of services they provide.	Based on a preliminary ruling in an Illinois court, federal law pre-empts the state laws meaning national financial institutions will not be impacted. Rather, it is the local community banks and credit unions that will be forced to comply, placing them at a disadvantage against their national competitors and opening them up to significant fines if they fail to comply.
The financial industry should be mandated to provide a service on an entire transaction but only paid to provide the service on part of the transaction.	Independent studies have confirmed that the service charges received for interchange are all invested back into the interchange system to fund fraud protection, risk management, consumer rewards, and free and low-cost checking and savings accounts. If that service is required on the entire transaction amount, the fee needs to cover the service for the entire transaction amount.
Corporate mega-stores are just trying to look out for consumers and small businesses.	Far from it – A recent study from the University of Miami found federal interchange legislation would put small businesses at a greater competitive disadvantage against corporate mega-stores like Target and Walmart. How? Small businesses will be out thousands of dollars for new point-of-sale technology they have to purchase and will be required to follow new, complicated compliance requirements for reporting, while consumers will see rewards negatively impacted and a loss of privacy about their purchases if corporate mega-stores chip away at interchange. The corporate mega-stores advocating for interchange have a history of squeezing out their competition and decimating small businesses. They should hardly be trusted as advocates of true small business interests.
Interchange service charges can be reduced without impacting consumer rewards benefits.	Consumer rewards are funded by interchange. Airlines and labor unions across the country have spoken out against interchange reform because of the success of their miles programs. If lawmakers chip away at interchange, it will reduce awards programs and make travel more expensive.
Interchange requires little more than a technological change that is easy to make and won't result in things like consumers having to pay in cash or two separate transactions.	It is easy for corporate mega-stores to minimize an upgrade in technology required by their smaller competitors – an investment in new technology and accounting procedures is simple for the mega-stores with teams of accountants and lawyers ensuring those changes result in millions saved. But most small businesses run their businesses on a simple point-of-sale platform without teams of sophisticated accountants and lawyers. Small businesses use payment systems that are built around only needing to capture a single number in the transaction: the cost of goods or services, plus tax. If this legislation moves forward, small businesses would be required to spend thousands to implement new technology, accounting, and compliance procedures because the current interfchange system is incapable of processing thousands of different tax jurisdictions. The corporate mega-stores are conveniently offering a solution where their smaller competitors suffer the pain while they reap the benefits of the gain.

CONSUMERS LOSE REWARDS AND CASH BACK IF MEGA-STORES WIN

A RETURN TO CASH

If taxes are processed separately, consumers could have to pay for sales tax in cash. This would create huge inconveniences and costs. For example, when you fill up your car with gas at the pump, you may then need to go inside the gas station to pay for the sales tax on that gas. Further, consumers short on cash would have to pay increased fees for cash withdrawal.

LOSS OF PRIVACY

What's more, if the new system requires tracking information on specific sales taxes consumers are paying, data on consumers' private purchases on items with different sales taxes like alcohol, tobacco, prescription drugs, or marijuana would be shared.

SAY GOODBYE TO CARD REWARDS AND CASH BACK

The proposal threatens to undermine the rewards systems families have come to rely upon to offset the rising costs of essentials like groceries and gas. Airlines and their unions have come out in opposition to interchange legislation because of the negative impacts on the points systems consumers love. In fact, Economic analysis from Oxford Economics Research, an independent advisory firm, found that this bill could cost the U.S. economy $228 billion in lost travel and tourism and 156,000 jobs.

COST SAVINGS WON'T BE PASSED ALONG

After the federal government imposed price caps on debit card interchange fees in 2011, only 1% of merchants passed the savings along to consumers by lowering their prices. Meanwhile, consumers suffered from higher fees, and rewards for debit cards disappeared.

Corporate retailers and mega-stores are advancing this issue to line their pockets and get out of paying their fair share.

LEGAL CHALLENGES TO INTERCHANGE OVERREACH

Legal experts have noted that similar legislation in other states is pre-empted by federal law.

- This experimental provision has not been implemented in any jurisdiction across the globe and a system to implement this law does not currently exist.
- The law violates numerous federal laws including the National Banking Act and the Federal Home Owners Loan Act and is opposed by the Office of the Comptroller of the Currency (OCC), a federal agency tasked with ensuring the safety and soundness of national banks.
- In Illinois, an early ruling in federal district court on its interchange legislation suggested the law might only apply to local banks and credit unions, placing them at a disadvantage to national competitors.
- In a court filing in 2024, the OCC called the Illinois law "an ill-conceived, highly unusual, and largely unworkable state law that threatens to fragment and disrupt this efficient and effective system."
- When faced with similar legislation, the Maryland Attorney General wrote there is "real risk that the bill's provisions are pre-empted by federal law."
- Defending legislation that is pre-empted by federal law would require precious state resources that could be put to better use for local taxpayers.

No other state in the U.S. and no other country around the world currently processes credit and debit card transactions this way. In fact, **29 other states have rejected this idea** because of the impact and hurdles it would have on commerce — just so the big corporations can make more money.

HB 171 Would Force Difficult Decisions for Financial Institutions while also Burdening Small Businesses & Consumers

Financial institutions face only bad choices to comply with the bill should it pass. Here are three options for them to consider:

1

Market Exit

- A financial institution decides its cards won't work in Alaska.
- A financial institution, particularly an out of state one, won't want to incur compliance costs or risk $1,000 per transaction fines for what amounts to a few cents.
- Tourism and travel industries will suffer if some cards don't work in Alaska.

2

Refuse to Process Tax & Tip Portions

- A financial institution is unable to process tax on its cards in Alaska.
- Customers will have to pay tax by cash or check, which is inconvenient and frustrating. It could also lead to higher costs as customers short on cash might face higher cash withdrawal costs and small businesses face the higher cost of cash processing.

3

Reduction in Rewards, Increases in Fees

- Interchange funds rewards (cash back, miles, points) which are currently awarded on entire transaction (principal + tax).
- Rewards may get reduced or eliminated in Alaska as interchange is reduced.
- Access to credit, including free and low-cost checking and savings accounts, may be at risk. When Congress imposed price caps on debit card interchange in 2011, access to banking services for lower-income Americans was also reduced as a result.
- Fees and interest on Alaska customers may increase to offset interchange loss.

Interchange pays for a service that transfers risk from retailer to issuer, runs the global payment system, and funds rewards. If the service is provided on the entire transaction amount, interchange must also cover the entire transaction amount.

HB 171 WILL FACE SAME LEGAL CHALLENGES AS ILLINOIS LAW

A state cannot do indirectly what it cannot do directly

What is Federal Preemption under the National Bank Act (NBA)?

- Federal preemption holds that federal law prevails over a conflicting state law.
- National bank powers under the NBA include (but are not limited to): "all such incidental powers as shall be necessary to carry on the business of banking" and most notably include the offering of banking products and services (such as electronic payments) and pricing thereof.
- Preemption under the NBA would make state laws not applicable to national banks if there is significant interference with national banks' powers.
- A federal court has already ruled the Illinois Interchange Fee Prohibition Act ("IFPA") is likely preempted by the NBA, and on that basis, granted a preliminary injunction as to national banks and federal savings associations (later expanded to include out of state, state-chartered banks).

The proposed "workaround" in HB 171 does not fix the preemption issue.

- Replacing bank with payment network does not fix the bill's significant interference with bank powers.
- States cannot undermine the rights of national banks and other federally protected financial institutions by utilizing a workaround targeting a national bank's service providers.
- The focus in a preemption analysis is whether there is significant interference with national banks' powers, not whether the law applies directly to national banks or some other entity.
- States cannot prohibit other participants in the intricately interconnected payment system (e.g., payment networks like Visa and Mastercard) from performing functions that are necessary to national banks' exercise of their federally granted powers because that would itself be a significant interference.
- To effectuate federal preemption, the IFPA - and similar bills - cannot be applied to card networks or others involved in the payment process when they are performing services integral to processing transactions that involve national banks or other beneficiaries of federal preemption.

House Bill 171 may only apply to in-state, state-chartered institutions, which would create an uneven playing field, taking revenue from small institutions and instead passing it along to large retailers.