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**SENATE BILL 5070**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Saldaña, Hasegawa, Conway, Cortes, Fortunato, Krishnadasan, Lovelett, Nobles, Orwall, Stanford, Trudeau, Valdez, Wellman, and J. Wilson

AN ACT Relating to prohibiting fees on certain acts of commerce to protect tipped wages for workers while reducing the financial burden on employers; amending RCW 49.46.020; adding a new chapter to Title 19 RCW; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature finds that the use of credit or debit cards can prevent an employee from receiving the full amount of their earned tips and gratuities. Currently some employers deduct a proportional amount of any fees the employer is assessed on a credit or debit card transaction from an employee's tip.

(2) The legislature also finds that credit or debit card usage in commercial transactions places an undue financial burden on merchants required to collect taxes on behalf of the state of Washington when the merchant must pay fees assessed on the taxed amount.

(3) Therefore, the legislature intends to bring greater transparency, clarity, and accountability to certain acts of commerce. Prohibiting all interchange fees on tips and gratuities will ensure employees receive their full earned tips and gratuities. Prohibiting all interchange fees on taxes merchants collect on behalf of the state will reduce the financial burden merchants bear on behalf of the state.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Acquirer bank" means a member of a payment card network that contracts with a merchant for the settlement of electronic payment transactions. An acquirer bank may contract directly with merchants or indirectly through a processor to process electronic payment transactions.

(2) "Authorization" means the process through which a merchant requests approval for an electronic payment transaction from the issuer.

(3) "Clearance" means the process of transmitting final transaction data from a merchant to an issuer for posting to the cardholder's account and the calculation of fees and charges, including interchange fees, that apply to the issuer and the merchant.

(4) "Credit card" means a card, plate, coupon book, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.

(5)(a) "Debit card" means a card or other payment code or device issued or approved for use through a payment card network to debit an asset account, regardless of the purpose for which the account is established, whether authorization is based on a signature, a personal identification number, or other means.

(b) "Debit card" includes a general use prepaid card, as defined in 15 U.S.C. Sec. 1693l-1 as it existed on the effective date of this section.

(c) "Debit card" does not include paper checks.

(6) "Electronic payment transaction" means a transaction in which a person uses a debit card, a credit card, or other payment code or device issued or approved through a payment card network to debit a deposit account or use a line of credit, whether authorization is based on a signature, a personal identification number, or other means.

(7) "Gratuity" means a voluntary monetary contribution to an employee from a guest, patron, or customer in connection with services rendered and due to an employee under RCW 49.46.020(2), including all tips, gratuities, and service charges.

(8) "Interchange fee" means a fee established, charged, or received by a payment card network for the purpose of compensating the issuer for its involvement in an electronic payment transaction.

(9) "Issuer" means a person issuing a debit card or credit card, or the issuer's agent.

(10) "Merchant" means a person that collects and remits a tax or collects a gratuity due to an employee.

(11) "Payment card network" means an entity that:

(a) Directly or through licensed members, processors, or agents, provides the proprietary services, infrastructure, and software to route information and data for the purpose of conducting electronic payment transaction authorization, clearance, and settlement; and

(b) A merchant uses to accept as a form of payment a brand of debit card, credit card, or other device that may be used to carry out electronic payment transactions.

(12) "Person" means any individual, firm, public or private corporation, government, partnership, association, or any other organization or entity.

(13) "Processor" means an entity that facilitates, services, processes, or manages the debit or credit authorization, billing, transfer, payment procedures, or settlement with respect to any electronic payment transaction.

(14) "Settlement" means the process of transmitting sales information to the issuing bank for collection and reimbursement of funds to the merchant, and calculating and reporting the net transaction amount to the issuer and merchant for an electronic payment transaction that is cleared.

(15) "Tax" means any moneys collected under chapters 82.08, 82.12, and 82.14 RCW.

(16) "Tax documentation" means documentation sufficient for the payment card network to determine the total amount of the electronic payment transaction and the tax or gratuity amount of the transaction. Tax documentation may be related to a single electronic payment transaction or multiple electronic payment transactions aggregated over a period of time. Examples of tax documentation include, but are not limited to, invoices, receipts, journals, ledgers, and tax returns filed with the department of revenue or local taxing authorities.

NEW SECTION. **Sec.**  (1) An issuer, a payment card network, an acquirer bank, or a processor may not receive or charge a merchant any interchange fee on the tax or gratuity amount of an electronic payment transaction if the merchant informs the acquirer bank or its designee of the tax or gratuity amount as part of the authorization or settlement process for the electronic payment transaction. The merchant must transmit the tax or gratuity amount data as part of the authorization or settlement process to avoid being charged interchange fees on the tax or gratuity amount of an electronic payment transaction.

(2) A merchant that does not transmit the tax or gratuity amount data in accordance with this section may submit tax documentation for the electronic payment transaction to the acquirer bank or its designee no later than 180 days after the date of the electronic payment transaction. Within 30 days after the merchant submits the tax documentation, the issuer must credit to the merchant the amount of interchange fees charged on the tax or gratuity amount of the electronic payment transaction.

(3) This section does not create liability for a payment card network regarding the accuracy of the tax or gratuity amount data reported by the merchant.

(4) It shall be unlawful for an issuer, a payment card network, an acquirer bank, or a processor 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 merchant to circumvent the effect of this section.

(5) Payment card networks shall, within two years of the effective date of this section, provide a mechanism for merchants to transmit tax or gratuity amount data as part of the electronic payment transaction process sufficient to allow acquirer banks to exclude those amounts from any interchange fee assessment.

**Sec.**  RCW 49.46.020 and 2019 c 236 s 2 are each amended to read as follows:

(1)((~~(a) Beginning January 1, 2017, and until January 1, 2018, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than eleven dollars per hour.~~

~~(b) Beginning January 1, 2018, and until January 1, 2019, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than eleven dollars and fifty cents per hour.~~

~~(c) Beginning January 1, 2019, and until January 1, 2020, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than twelve dollars per hour.~~

~~(d) Beginning January 1, 2020, and until January 1, 2021, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than thirteen dollars and fifty cents per hour.~~

~~(2)(a) Beginning on January 1, 2021, and each following January 1st as set forth under (b) of this subsection, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than the amount established under (b) of this subsection.~~

~~(b)~~)) On ((~~September 30, 2020, and on~~)) each ((~~following~~)) September 30th, the department of labor and industries shall calculate an adjusted minimum wage rate to maintain employee purchasing power by increasing the current year's minimum wage rate by the rate of inflation. The adjusted minimum wage rate shall be calculated to the nearest cent using the consumer price index for urban wage earners and clerical workers, CPI-W, or a successor index, for the ((~~twelve~~)) 12 months prior to each September 1st as calculated by the United States department of labor. Each adjusted minimum wage rate calculated under this subsection ((~~(2)(b)~~)) takes effect on the following January 1st.

((~~(3)~~)) (2)(a) An employer must pay to its employees: ((~~(a)~~)) (i) All tips and gratuities; and ((~~(b)~~)) (ii) all service charges as defined under RCW 49.46.160 except those that, pursuant to RCW 49.46.160, are itemized as not being payable to the employee or employees servicing the customer.

(b) An employer may not reduce an employee's tips, gratuities, and service charge by the amount of any interchange fees as defined in section 2 of this act.

(c) Tips and service charges paid to an employee are in addition to, and may not count towards, the employee's hourly minimum wage.

((~~(4)~~)) (3) Beginning January 1, 2018, except as provided in RCW 49.46.180, every employer must provide to each of its employees paid sick leave as provided in RCW 49.46.200 and 49.46.210.

((~~(5)~~)) (4) The director shall by regulation establish the minimum wage for employees under the age of ((~~eighteen~~)) 18 years.

NEW SECTION. **Sec.**  (1) An issuer, a payment card network, an acquirer bank, a processor, or other designated entity that has received the tax or gratuity amount data and violates section 3 of this act is subject to a civil penalty of $1,000 per electronic payment transaction, and the issuer must refund the merchant the interchange fee calculated on the tax or gratuity amount relative to the electronic payment transaction. Civil penalties imposed under this section must be paid to the director of the department of labor and industries for deposit in the supplemental pension fund established in RCW 51.44.033. Penalties under this section are in addition to any other penalties or other relief provided under chapter 49.46 RCW and Title 82 RCW.

(2)(a) An entity, other than the merchant, involved in facilitating or processing an electronic payment transaction, including, but not limited to, an issuer, a payment card network, an acquirer bank, a processor, or other designated entity, may not distribute, exchange, transfer, disseminate, or use the electronic payment transaction data except to facilitate or process the electronic payment transaction or as required by law.

(b) A violation of this subsection constitutes a violation of the consumer protection act pursuant to chapter 19.86 RCW.

NEW SECTION. **Sec.**  This act takes effect July 1, 2026.

NEW SECTION. **Sec.**  Sections 1 through 3, 5, and 6 of this act constitute a new chapter in Title 19 RCW.

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