

HOUSE BILL 547

By Casada

AN ACT to amend Tennessee Code Annotated, Title 45
and Title 47, relative to payment cards.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 22, is amended by adding the following language as a new part:

47-22-401. As used in this part:

(1) "Acquiring bank" means any depository institution, or any other member of a payment card network, that has entered into an agreement with a merchant to do the following:

(A) Provide an account to the merchant that allows the merchant to accept credit card, debit card, or other payment card payments; and

(B)

(i) Purchase sales slips or otherwise acquire transactions from the merchant arising from the merchant's acceptance of credit cards, debit cards, or other payment cards; or

(ii) Facilitate the processing of the merchant's transactions involving the acceptance of credit cards, debit cards, or other payment cards by providing the merchant's transaction information to a card issuer through a payment card network;

(2) "Card issuer" means any person who issues a credit card, debit card, or other payment card, or the agent of the person with respect to the card;

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

(4) “Debit card”:

(A) Means any 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 signature, PIN, or other means;

(B) Includes a general-use prepaid card, as defined in 15 U.S.C. § 1693l-1(a)(2)(A); and

(C) Does not include paper checks;

(5) “Depository institution”:

(A) Has the same meaning as defined in 12 U.S.C. § 1813(c)(1); and

(B) Includes any federal credit union or state credit union, as those terms are defined in 12 U.S.C. § 1752;

(6) “Merchant” means a person, located in this state, that is in the business of selling property or services and that accepts credit cards, debit cards, or other payment cards as payment for property or services sold;

(7) “Merchant fee”:

(A) Means any amount:

(i) Charged, established, or received by a payment processor, acquiring bank, payment card network, or card issuer; and

(ii) Paid by a merchant in relation to a credit card, debit card, or other payment card transaction; and

(B) Includes any amount related to the purchase or lease of equipment used in relationship to credit card, debit card, or other payment card transactions if that amount is charged, established, or received by a payment processor, acquiring bank, payment card network, or card issuer;

(8) “Other payment card”:

(A) Means any stored value card, smart card, gift card, or other similar device that enables a person to obtain property or services in a transaction with a merchant, the payment for which is initiated through a payment card network; and

(B) Does not include credit cards or debit cards;

(9) “Payment card network” means an entity:

(A) That directly, or through licensed members, processors, or agents, provides the proprietary services, infrastructure, and software that route information and data to conduct credit card, debit card, or other payment card transaction authorization, clearance, and settlement; and

(B) That a person uses in order to accept as a form of payment a brand of credit card, debit card, or other payment card; and

(10) “Payment processor” means a person that contracts directly with a merchant to provide settlement for the merchant’s credit card, debit card, or other payment card transactions.

47-22-402. Any payment processor that contracts directly with a merchant to provide settlement for the merchant’s credit card, debit card, or other payment card transactions shall:

(1) Provide the merchant with a copy of all payment card network operating rules, regulations, and bylaws applicable to the credit card, debit card, or other payment card transactions settled by the payment processor for the merchant;

(2) Provide the merchant with a complete schedule of all merchant transaction fees applicable to the credit card, debit card, or other payment card transactions settled by the payment processor for the merchant; and

(3) As of the end of each monthly period or other regular period agreed upon by the payment processor and the merchant, promptly supply the merchant with a statement that includes:

(A) An itemized list of all merchant fees accrued since the previous statement; and

(B) An indication of the aggregate fee percentage, which shall be calculated by dividing the sum of all merchant fees accrued during the statement period by the total value of the transactions processed by the payment processor for the merchant during the statement period.

47-22-403.

(a) The commissioner of commerce and insurance may assess a civil penalty against any payment processor that knowingly engages in conduct in violation of § 47-22-402.

(b) The civil penalty pursuant to subsection (a) shall not exceed two thousand dollars (\$2,000) per violation.

(c) Any hearing on the imposition of a civil penalty pursuant to this section shall be conducted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. This act shall take effect July 1, 2015, the public welfare requiring it, and shall apply to all agreements entered into or renewed on or after that date.