

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

**House Bill 4396**

**FISCAL  
NOTE**

By Delegates Burkhammer and Pinson

[Introduced January 15, 2026; referred to the

Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,  
2 designated §11-13NN-1, §11-13NN-2, §11-13NN-3, and §11-13NN-4, all relating to credit  
3 card surcharge fees; providing definitions; clarifying surcharge calculations; providing a tax  
4 deduction or rebate; and creating a civil penalty.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 13NN. TAXES AND FEES COLLECTED BY MERCHANTS AND SELLERS.**

**§11-13NN-1. Definitions.**

1 (a) General. — When used in this article, or in the administration of this article, terms  
2 defined in subsection (b) of this section have the meanings ascribed to them by this section unless  
3 a different meaning is clearly required by the context in which the term is used.

4 (b) Terms defined. —

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

7 (2) "Debit card":

8 (A) Means a card, or other payment code or device, issued or approved for use through a  
9 payment card network to debit an asset account, regardless of the purpose for which the account  
10 is established, whether authorization is based on signature, personal identification number, or  
11 other means;

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

13 (C) Does not include paper checks;

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

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

20 transaction;

21 (5) "Issuer" means a person issuing a debit card or credit card, or the issuer's agent;

22 (6) "Payment card network" means an entity that:

23 (A) Directly, or through licensed members, processors, or agents provides the proprietary  
24 services, infrastructure, and software that routes information and data to conduct debit card or  
25 credit card transaction authorization, clearance, and settlement; and

26 (B) A merchant or seller uses in order to accept as a form of payment a brand of debit card,  
27 credit card, or other device that may be used to carry out debit or credit transactions; and

28 (7) "Settlement" means the transfer of funds from a customer's account to a seller or  
29 merchant upon electronic submission of finalized sales transactions to the payment card network.

**§11-13NN-2. Surcharge calculation of electronic payment transactions.**

1 The amount of a state or local tax or fee that is calculated as a percentage of an electronic  
2 payment transaction amount and listed separately on the payment invoice or other demand for  
3 payment, or the amount of a tax imposed under chapter 11 of this code, must be excluded from the  
4 amount on which an interchange fee is charged for that electronic payment transaction. Such  
5 taxes and fees include, but are not limited to:

6 (1) Sales and use taxes under article 15B of this chapter;

7 (2) Hotel occupancy taxes under §7-17-1 et seq. of this code;

8 (3) Alcoholic beverage taxes under § 60-3A-21½ of this code; and

9 (4) Rental vehicle surcharge taxes under §17A-6D-2 of this code.

**§11-13NN-3. Tax deduction or rebate.**

1 (a) A payment card network shall either:

2 (1) Deduct the amount of any tax imposed from the calculation of interchange fees specific  
3 to each form or type of electronic payment transaction at the time of settlement; or

4 (2) Rebate an amount of interchange fee proportionate to the amount attributable to the tax  
5 or fee.

(b) A deduction or rebate must occur at the time of settlement when the merchant or seller is able to capture and transmit tax or fee amounts relevant to the sale at the time of sale as part of the transaction finalization.

9        (c) If a merchant or seller is unable to capture and transmit tax or fee amounts relevant to  
10      the sale at the time of sale, then the payment card network shall accept proof of tax or fee amounts  
11      collected on sales subject to an interchange fee upon the submission of sales data by the  
12      merchant or seller and promptly credit the merchant or seller's settlement account.

**§11-13NN-4. Civil penalty.**

1        A payment card network that violates this part is subject to a civil penalty of not more than  
2        \$1,000 dollars per violation, payable to the plaintiff, and shall refund the surcharge to each  
3        merchant or seller.

NOTE: The purpose of this bill is to remove sales tax from being included in the electronic payment surcharge computation and creating a civil penalty.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.