



**Statement of the Massachusetts Bankers Association in opposition to
S.205 - An Act relative to price-fixing prohibition and consumer transparency
Joint Committee on Consumer Protection and Professional Licensure
June 2, 2025**

On behalf of our more than 120 commercial, savings and cooperative banks and federal savings institution members with more than 72,000 employees located throughout the Commonwealth and New England, the Massachusetts Bankers Association (MBA) appreciates the opportunity to submit testimony **in strong opposition to S.205 - An Act relative to price-fixing prohibition and consumer transparency.** This bill seeks to impose new restrictions or limitations on the electronic payments system that will solely benefit large corporate retailers while increasing costs on and ultimately harm small businesses and consumers across Massachusetts

S.205 contains several provisions that would alter the contractual relationship between a merchant that accepts credit and debit card payments and the banks and card associations that are providing the means for them to do so. Ultimately, the legislation is an attempt to regulate interchange fees – those fees paid by merchants to banks that issue debit and credit cards that help fund the continued operation of our current electronic payments system.

How Does Interchange Work?

Interchange fees partially reimburse card issuers for the activities they perform and the risk they take on for a transaction. There are also significant costs that go into operating a card program, such as billing and collection, customer service, data processing, fraud and security, and compliance. Collection of interchange fees allows smaller institutions to partially offset these costs.

For each transaction, there are typically five parties – the customer, the merchant, the merchant's bank or acquiring bank, the customer's bank or issuing bank and the card association. In this example, interchange is a cost that acquirers typically include in merchant service charges. When a customer engages in a transaction, the card issuer keeps the interchange revenue, and the merchant's bank keeps the merchant service charge minus interchange fee.

During consideration of the federal Dodd-Frank Act, provisions were included in the so-called Durbin Amendment to limit the interchange fees institutions with more than \$10 billion in assets could impose on merchants for debit card transactions. Retailers and other merchant groups claimed that reducing interchange fees would benefit consumers through lower prices. The Federal Reserve promulgated rules that were finalized in 2011 that sets the interchange fee at an average of 24 cents per transaction. Merchant and retailer groups objected and sued the Federal Reserve however their arguments were rejected by the federal courts.

As expected, according to a number of studies released since the interchange fee cap was instituted, retailers have not lowered their prices and in many cases, consumers are paying more for goods and services. Ultimately, the Durbin amendment resulted in large, big box retailers pocketing any savings on interchange fees without passing on any benefits to their customers.

Benefits of Interchange

Merchants benefit greatly by accepting debit, credit, and other forms of electronic payment. Countless studies have demonstrated that customers prefer convenience, and since a retailer is in business to sell merchandise, those merchants that are most efficient in encouraging customers to purchase quickly and with the greatest ease, will gain more business.

When a customer pays via a credit or debit card, merchants are guaranteed nearly instant payment. Banks that issue debit cards assume all the risk of nonpayment, even if the customer does not have funds available or does not pay their credit card bill. Years ago, those businesses would have taken paper checks and hoped that the customer had the funds in his or her account. We believe that interchange is a small price to pay for ensuring that payment is received almost instantly from the issuing bank.

Businesses that accept payment cards also avoid the extra costs and liability of processing large amounts of cash, reduce or eliminate the need for armored car deliveries, and lessen overall safety and security concerns associated with cash businesses. Interchange is simply another cost of doing business that some retailers are attempting to shift these additional costs to consumers and the banking industry.

Why Interchange is Important to Community Banks

A major concern for the majority of community banks that do not issue credit cards is that banks bear all the liability for fraud losses in cases of merchant data breaches, lost/stolen payment cards, or larger criminal operations. The cost of fraud and fraud detection is significant, particularly for smaller institutions, and these costs have skyrocketed. In the TJX, Home Depot and Target security breaches, it was the banking and credit union industries that suffered major financial losses on those fraudulent transactions and paid for the cost of reissuing cards to tens of thousands of customers.

While banks continue to replace older magnetic strip cards with more secure so-called “Chip” or “EMV” cards, these new cards will not eliminate fraud completely. For example, criminals will still be able to steal large volumes of card data to be used for fraudulent online or other “card not present” sales. As technology evolves, the banking industry is working to develop and implement even more secure payment methods such as tokenization, biometrics and stronger encryption.

Comments on S.205

S.205 contains several provisions that MBA **strongly opposes**. The bill prohibits banks from charging interchange fees on the sales tax portion of a transaction. Instead of saving smaller retailers and merchants money, this proposal may increase the administrative and operational costs and burden on merchants.

Under the current system, when a retailer makes a sale using a customer’s debit or credit card, the system recognizes only the final purchase amount. The interchange fee is based only on this total amount – the system simply doesn’t recognize sales tax or any other fee that is part of the total purchase price. For merchants to comply with these bills they would be required to develop, implement, and pay for a separate system to collect only the sales tax. In our opinion, the costs of creating a duplicate payment system would be significant, and requiring customers to remit the sales tax in cash or by check would be

entirely impractical. Small businesses in particular would be forced to implement costly new systems during difficult economic times, and the new costs would simply be passed on to consumers.

The bill also contains provisions requiring financial institutions and the card associations to provide the complete card association rules, schedule of interchange fees, as well as other information regarding credit and debit card transactions. These provisions are unnecessary, since interchange fees and the merchant operating rules are already publicly disclosed and available to all retailers on the MasterCard and Visa websites. The card associations have also made their interchange rates publicly available online.

Litigation Concerns

In 2024, included as a late-filed amendment to its budget and not through public hearings, Illinois became the first, and only, state to enact language to prohibit collection of interchange on sales tax – a decision that has since been met with several lawsuits in federal court. In December 2024 and in February 2025, a federal judge issued preliminary injunctions halting the enforcement of the newly passed law. While the Association **strongly opposes S.205** outright as filed and before the Committee, we further encourage the Committee to not consider, nor act on, this bill while similar legislation is being litigated in the federal courts.

Payments Commission

As we testified on several other bills before the Committee, we further encourage the Committee to refer all legislation pertaining to credit card fees, credit card payments, and anything related to the use of credit cards to the Payments Commission, which was established under the 2024 Economic Development bill “to study the future of payments and sales transactions by credit card and other forms of payment and the impacts for small businesses in commonwealth.”

As part of its scope, the Commission shall study and review “...(i) the cost to small businesses operating in the commonwealth of conducting sales transactions with consumers using credit cards or other means of payment, including, but not limited to, cash, check or similar means; (ii) the impact of the increasing use of credit cards or other means of payment by consumers on small businesses; and (iii) the impact of section 28A of chapter 140D of the General Laws on small businesses owned and operated in the commonwealth.”

Conclusion

MBA **strongly opposes S.205** and we urge the Committee to reject legislation that seeks to impose price controls and restrictions along with regulatory micro-management on the electronic payments system. Ultimately, such restrictions will reduce competition, innovation and stand only to harm small businesses and consumers throughout Massachusetts.

Thank you for considering our views on this matter.



Statement of the Massachusetts Bankers Association regarding:

H.319 – An Act relative to transparency in optional credit card fees

H.375 & S.204 - An Act relative to transparency in credit card fees

H.447 – An Act regarding credit card surcharging

H.454 & S.278 - An Act relative to credit card surcharges

S.194 - An Act relative to transparency in credit card fees

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On behalf of our more than 120 commercial, savings and cooperative banks and federal savings institution members with more than 72,000 employees located throughout the Commonwealth and New England, thank you for the opportunity to comment on several bills before the Committee.

Each of these bills in some manner amend Section 28A of Chapter 140D, which would allow for merchants to impose a surcharge on any transaction made by a credit card.

We believe that [Section 28A of Chapter 140D](#) works as intended and that any amendments to the statute should be carefully considered before being implemented. We further encourage the Committee to refer all legislation pertaining to credit card fees, credit card payments, and anything related to the use of credit cards be debated by the Payments Commission, which was established under the 2024 Economic Development bill “to study the future of payments and sales transactions by credit card and other forms of payment and the impacts for small businesses in commonwealth.”

As part of its scope, the Commission shall study and review “...(i) the cost to small businesses operating in the commonwealth of conducting sales transactions with consumers using credit cards or other means of payment, including, but not limited to, cash, check or similar means; (ii) the impact of the increasing use of credit cards or other means of payment by consumers on small businesses; and (iii) the impact of section 28A of chapter 140D of the General Laws on small businesses owned and operated in the commonwealth.”

We encourage this Committee to not move forward with these pieces of legislation until the Commission files its report with recommendations as it relates to the current statute referenced in each of the bills listed above.

Thank you for the opportunity to comment on these bills and for your consideration of our comments. As always, we are more than happy to meet with you to discuss further.