

Nos. 26-1354, 26-1371, 26-1440, 26-1441 (consolidated)

IN THE
United States Court of Appeals
for the Seventh Circuit

ILLINOIS BANKERS ASSOCIATION, *ET AL.*,

Plaintiffs-Appellants / Cross-Appellees,

v.

KWAME RAOUL, in his official capacity as Illinois Attorney General,

Defendant-Appellee / Cross-Appellant.

On Appeal from the United States District Court
for the Northern District of Illinois, Eastern Division

**BRIEF OF *AMICI CURIAE* RESTAURANT LAW CENTER AND
ILLINOIS RESTAURANT ASSOCIATION IN SUPPORT OF
DEFENDANT-APPELLEE / CROSS-APPELLANT**

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CIRCUIT RULE 26.1 DISCLOSURE STATEMENT

Appellate Court No. 26-1354, 26-1371, 26-1440, 26-1441 (consolidated)

Short Caption: Illinois Bankers Association, et al. v. Kwame Raoul

To enable the judges to determine whether recusal is necessary or appropriate, an attorney for a non-governmental party or amicus curiae, or a private attorney representing a government party, must furnish a disclosure statement providing the following information in compliance with Circuit Rule 26.1 and Fed. R. App. P. 26.1.

The Court prefers that the disclosure statement be filed immediately following docketing; but, the disclosure statement must be filed within 21 days of docketing or upon the filing of a motion, response, petition, or answer in this court, whichever occurs first. Attorneys are required to file an amended statement to reflect any material changes in the required information. The text of the statement must also be included in front of the table of contents of the party’s main brief. **Counsel is required to complete the entire statement and to use N/A for any information that is not applicable if this form is used.**

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(1) The full name of every party that the attorney represents in the case (if the party is a corporation, you must provide the corporate disclosure information required by Fed. R. App. P. 26.1 by completing item #3):

Restaurant Law Center, Illinois Restaurant Association

(2) The names of all law firms whose partners or associates have appeared for the party in the case (including proceedings in the District Court or before an administrative agency) or are expected to appear for the party in this court:

Epstein, Becker & Green, P.C. (in this Court); Esbrook P.C. (in district court)

(3) If the party or amicus is a corporation:

i) Identify all of its parent corporations, if any; and

None for either of the amici

ii) list any publicly held company that owns 10% or more of the party’s or amicus’ stock:

None for either of the amici

4) Provide information required by FRAP 26.1(b) – Organizational Victims in Criminal Cases:

N/A

(5) Provide Debtor information required by FRAP 26.1 (c) 1 & 2:

N/A

Attorney's Signature /s/ Paul DeCamp Date: April 10, 2026

Attorney's Printed Name: Paul DeCamp

Please indicate if you are *Counsel of Record* for the above listed parties **Yes** **No**
pursuant to Circuit Rule 3(d).

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N/A

(5) Provide Debtor information required by FRAP 26.1 (c) 1 & 2:

N/A

Attorney's Signature /s/ Kathleen Barrett Date: April 10, 2026

Attorney's Printed Name: Kathleen Barrett

Please indicate if you are *Counsel of Record* for the above listed parties **Yes**
pursuant to Circuit Rule 3(d).

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IDENTITY AND INTEREST OF *AMICI CURIAE*

Amicus Restaurant Law Center is a public policy organization affiliated with the National Restaurant Association, the world's largest foodservice trade association. The industry is comprised of over one million restaurants and other foodservice outlets that represent a broad and diverse group of owners and operators—from large national outfits and franchisors with hundreds of locations and billions in revenue, to small single-location, family-run neighborhood restaurants and bars, and everything in between. The industry employs over 15.7 million people and is the nation's second-largest private-sector employer. In 2025, restaurants contributed \$1.4 trillion to the national economy.¹

Amicus Illinois Restaurant Association is a non-profit trade organization founded over one hundred years ago to promote, educate, and improve the restaurant industry in Illinois. Headquartered in Chicago, the Association has nearly 8,000 members statewide—including restaurant operators, food service professionals, suppliers, and related industry professionals—and represents the Illinois restaurant industry, which includes more than 26,000 restaurant locations, and employs more than half a million people across the state. The Association supports the restaurant industry by promoting local tourism, providing food service education and training programs, providing analysis on topics of the day, providing networking opportunities, hosting culinary events, and advocating for members' interests.

¹ No party or counsel for a party authored this brief in whole or in part, and no person or entity other than *amici curiae* and their counsel made a monetary contribution to fund the preparation or submission of this brief. See FED. R. APP. P. 29(a)(4)(E).

Amici and their members have a significant interest in the important issues raised by this case. More than eight out of ten restaurant transactions today are paid for using a credit or debit card, on which card companies and issuing banks charge interchange and other “swipe” fees amounting to several percent of the total transaction amount, including on taxes and gratuities. Illinois restaurant operators pay millions of dollars annually in interchange fees on sales taxes alone—even though they remit 100% of those taxes to the government—which further increases prices amid surging inflation and rising costs that continues to squeeze the restaurant industry. A laudable solution to a major problem, the Illinois Interchange Fee Prohibition Act provides much needed relief from the exorbitant and ever-mounting interchange fees charged by card networks in this State. Illinois restaurants, along with their customers and employees, need and deserve the protections the law provides.

INTRODUCTION AND SUMMARY OF ARGUMENT

Interchange fees represent a hidden, exploitative and anticompetitive tax on businesses and consumers. They are particularly devastating to the restaurant industry and its patrons, and the status quo has become unsustainable. These fees of 2-4% per credit card transaction in the United States—which are the highest fees in the industrialized world—cost merchants more than *\$198 billion* annually. Shockingly, restaurant owners are forced to pay these fees not just on the amount their diners pay for their meals; they *also* must pay these fees on sales taxes that restaurants are legally required to collect and which they remit 100% to the government, as well as on gratuities that are 100% passed on to hardworking staff. This practice

amounts to unfair double taxation, forcing businesses to effectively pay a private toll on money that they receive solely as a pass-through and is never theirs to keep. For a typical small business restaurant with \$1 million in annual revenue, this unjust system can siphon more than \$5,500 per year on fees for money they don't keep, further eroding their 3-5% pre-tax profit margins and adding yet another cost amid an already difficult operating environment. The cost is real for consumers, too: the average family in America paid over \$1,200 in credit card swipe fees in 2025 alone.

The Interchange Fee Prohibition Act is a measured and legally tested solution to help mitigate a broken U.S. payment ecosystem by reining in a portion of the exorbitant and non-negotiable swipe fees that are now often the third highest cost for restaurant operators in Illinois and across the nation. Additionally, the Interchange Fee Prohibition Act is a workable solution for all parties within the payment ecosystem, and the Act will benefit both small businesses and consumers in the state of Illinois and thus should be upheld.

To this end, National Restaurant Association economists estimate that the Interchange Fee Prohibition Act would save the average full-service restaurant in Illinois at least \$9,600 in card processing fees per year—this is meaningful relief for operators who averaged only a \$45,500 profit margin in the state in 2025. For Illinois operators with multiple restaurants, the annual savings would be much higher. Overall, the Association estimates this law would save the Illinois restaurant industry and its customers more than \$132 million in fees on an annual basis. These are significant sums that could be kept in the state stimulating local economic activity,

as opposed to siphoning these dollars out of state to global card networks and giant Wall Street banks. The profits of local business owners will stay in their community, contributing to their local food bank, children's little league teams, churches and synagogues, and local charities. Their success directly supports the community they serve.

ARGUMENT

I. THE U.S. PAYMENT ECOSYSTEM IS BROKEN AND BADLY IN NEED OF REFORM.

Today, there are no federal laws or regulations that govern the cost of credit card transactions within the U.S. payment ecosystem. These conditions have created a power vacuum enabling two companies, Visa and Mastercard, to control over 80% of the credit card marketplace. As a result, U.S. merchants pay the highest interchange fees in the industrialized world at an average of 2.36%² and can be as much as 4% per transaction.³ These rates become particularly alarming when compared to places like Europe, Australia, and Canada, where interchange fees have been capped at 0.3%,⁴ 0.8%,⁵ and 0.95%⁶ respectively. This comparison begs the question: why

² *Merchant Processing Fees in the United States—2025*, Nilson Report, No. 1303 (“Nilson Report”), Mar. 2026, at 10.

³ Wells Fargo Merchant Services, *Payment Network Qualification Matrix* (Jan. 2026), <https://www.wellsfargo.com/assets/pdf/small-business/merchant/interchange-plus.pdf>.

⁴ Gabriela Edreva, *EU Cap on Interchange Fees for Card-Based Payments*, CMS (Apr. 2016), <https://cms.law/en/bgr/publication/eu-cap-on-interchange-fees-for-card-based-payments201>.

⁵ Reserve Bank of Australia, *Questions & Answers: Card Payments Regulation*, <https://www.rba.gov.au/payments-and-infrastructure/review-of-card-payments-regulation/q-and-a/card-payments-regulation-qa-conclusions-paper.html#interchange-fees-q3>.

⁶ Government of Canada, *Government of Canada announced finalized agreements with Visa and Mastercard to lower credit card transaction fees for small businesses* (Dec. 5,

are credit card fees so much higher in the U.S. than almost anywhere else in the world? It is simply because the Visa/Mastercard duopoly has remained unchecked for decades, resulting in a broken market that enables anticompetitive and price-fixing practices to thrive. This ultimately inflates the costs of menu items and other goods and services in a way that leaves consumers and business owners holding the bag.

Today, the two dominant card brands dictate interchange fee rates through “fee schedules” that are adopted by every one of the thousands of banks and credit unions that issue cards. Interchange fee rates are typically established with a percentage-based fee component plus a flat fee component (e.g., 2.36% + \$0.10 per transaction), which is by far the largest of several fees that a restaurant owner, like other merchants, pays simply to accept an electronic payment. Every time a customer swipes a credit card, the restaurant owner accepting the payment must pay that interchange fee to the bank that issued the credit card. However, this fee is also the most unjust because interchange fees are centrally fixed by payment card networks like Visa and Mastercard on behalf of the thousands of banks and credit unions that issue cards with their logos on them, insulating interchange fees from true market competition. Rather than competing to offer the lowest fees and therefore hold down costs for restaurant owners and prices for consumers, the two card giants effectively compete against each other to set the highest interchange fees. Doing so means more

2023), <https://www.canada.ca/en/innovation-science-economic-development/news/2023/12/government-of-canada-announces-finalized-agreements-with-visa-and-mastercard-to-lower-credit-card-transaction-fees-for-small-businesses.html>.

revenue for the thousands of banks that adopt their fee schedules and encourages them to issue cards from whichever of the two networks has the more lucrative interchange fees.⁷

In addition to interchange fees, restaurant operators must also pay a “network fee” to the card network that facilitates each transaction and an “acquirer fee” to the merchant’s bank. Together, these “swipe fees” can total over 4% of any given purchase for credit card payments. And the costs of credit and debit swipe fees together are mind boggling: in 2025, U.S. merchants paid *\$198.25 billion* in swipe fees for all credit and debit card transactions. Of that, *\$118.83 billion* was in swipe fees on Visa- and Mastercard-branded credit card transactions alone.⁸ The amount of total swipe fees in 2025 was up more than 43% compared to 2021, which was itself up more than 25% compared to 2020—an indication of the extent to which card transactions (and, thus, swipe fees) exploded during and after the pandemic.⁹

The plaintiffs allege that interchange fees “are critical to the card payment processing system,” and even “vital to the modern economy,” “because they compensate . . . for the costs and risk associated with” credit and debit card transactions. Compl. ¶¶ 2, 53, Dkt. No. 1, *Illinois Bankers Ass’n v. Rauol*, 1:24-cv-07307 (N.D. Ill. Aug. 15, 2024). But the prevailing interchanges rates far exceed the costs issuers actually incur to process the overwhelming majority of transactions. Processing costs

⁷ Board of Governors of the Federal Reserve System, *Report to the Congress on the Profitability of Credit Card Operations of Depository Institutions*, 7 (Nov. 2020), <https://www.federalreserve.gov/publications/files/ccprofit2020.pdf>.

⁸ Nilson Report at 10.

⁹ *Id.*

cannot possibly reach 2-4% of transaction value.¹⁰ Indeed, by one estimate, high-volume issuers make a profit margin of more than 80% on interchange fees.¹¹ Further, processing costs do not generally increase linearly with the amount of the transaction; the cost of processing a \$100 transaction is not 100 times the cost of processing a \$1 transaction.¹²

Additionally, restaurant operators and other merchants effectively pay for fraud twice over—first, they pre-pay for potential, unrealized fraud losses through interchange fees, and then credit card companies and banks generally pass actual fraud costs back to merchants in the form of chargebacks. When a fraud claim is made, the restaurant operator returns the payment for the goods or service to the bank without the return of their product/service. The merchant pays an additional fee to facilitate the chargeback, which typically runs anywhere from \$5 to \$20 per chargeback on top of the swipe fees lost on the sales taxes and tips that were already passed through. According to the Federal Reserve, merchants and consumers absorbed over 70% of all losses from fraudulent debit transactions compared to card issuers themselves who only shouldered 28.3% of fraud losses in 2023.¹³ While this

¹⁰ Vladimir Mukharlyamov & Natasha Sarin, *The Impact of the Durbin Amendment on Banks, Merchants, and Consumers*, Faculty Scholarship at Penn Law 3 (2019).

¹¹ Letter from Retail Industry Leaders Association to Ann E. Misback (May 10, 2024), <https://www.rila.org/focus-area/public-policy/fed-must-do-more-to-reign-in-excessive-fees#:~:text=RILA%20filed%20comments%20with%20the,comments%20to%20the%20Federal%20Reserve> (last visited Apr. 10, 2025).

¹² Mukharlyamov & Sarin, *supra* note 10, at 3.

¹³ Board of Governors of the Federal Reserve System, *2023 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card*

data is only available for U.S. debit transactions, we can extrapolate to assume that similar trends plague the credit card space. Simply put, the fact that U.S. interchange fees are considerably higher than rates in other industrialized nations demonstrates that credit and debit card issuers are not merely recouping their costs, but rather exploiting market power and a regulatory void.

As a result of this market exploitation, payment card networks like Visa and Mastercard have amassed an astounding 50% annual profit margin or more,¹⁴ while banks issuing cards with Visa or Mastercard logos on them amassed an average 30% overall profit margin just last year.¹⁵ These figures are in stark comparison to an average pre-tax margin of just 3-5% for a typical restaurant. Issuers' grievances about the relatively modest reduction in interchange fees that would result from excluding the portion of a transaction attributable to taxes and gratuities for sales in Illinois are thus significantly overstated, and reform to the payment ecosystem is sorely needed.

Transactions, 2-3 (Dec. 2025), https://www.federalreserve.gov/paymentsystems/files/debit-fees_costs_2023.pdf.

¹⁴ Press Release, U.S. Sen. Josh Hawley, *Classic, Collusive Monopoly Behavior': Hawley Calls Out Credit Card Companies for Killing Competition, Demands Congress Cap Interest Rates* (Nov. 19, 2024), <https://www.hawley.senate.gov/classic-collusive-monopoly-behavior-hawley-calls-out-credit-card-companies-for-killing-competition-demands-congress-cap-interest-rates/>.

¹⁵ Aswath Damodaran, N.Y.U. Stern, *Margins by Sector* (last updated Jan. 2026), https://pages.stern.nyu.edu/~adamodar/New_Home_Page/datafile/margin.html.

II. THE INTERCHANGE FEE PROHIBITION ACT IS A WORKABLE SOLUTION THAT REPRESENTS A LEGALLY TESTED MEASURE AND PROVIDES IMPORTANT BENEFITS FOR BUSINESSES, CONSUMERS, AND WORKERS.

Against the backdrop of this broken system, Illinois adopted the Interchange Fee Prohibition Act in June 2024. The Act is designed to save merchants like restaurant operators millions of dollars in unnecessarily elevated interchange fees—for the benefit of businesses, consumers, and workers. And the Act’s main prohibition—charging interchange fees on the portion of a transaction attributable to taxes or gratuities—adopts a common-sense rule to address market gaps and prevent exploitation.

A. The District Court Upheld Key Provisions of the Interchange Fee Prohibition Act.

On February 10, 2026, the district court handed down its merits decision¹⁶ regarding the Interchange Fee Prohibition Act.

Just like in the preliminary stages of the litigation, the court considered and explicitly rejected the Plaintiffs’ argument that Visa and Mastercard’s interchange fee-setting conduct should be preempted by the National Banking Act, simply because payment card networks are not banks. More importantly, the court ultimately reversed the preliminary injunction on the Interchange Fee Prohibition Act applying to banks themselves and ruled that because interchange fees are set by card networks

¹⁶ Memorandum Opinion & Order, ECF No. 179, *Illinois Bankers Ass’n v. Rauol*, (N.D. Ill. Feb. 10, 2026), https://storage.courtlistener.com/recap/gov.uscourts.ilnd.463030/gov.uscourts.ilnd.463030.179.0_1.pdf.

and merely collected by card-issuing banks and credit unions, all parties on the financial side of the payments ecosystem are subject to the law's interchange fee restrictions and its enforcement provisions:

“The payment card networks built this ecosystem, and the payment card networks set these fees,” Judge Kendall wrote. “To claim that the IFPA interchange fee provision impermissibly interferes with the power set out in (the National Bank Act) — which ‘should be arrived at by each bank on a competitive basis and not on the basis of any agreement’ — does not add up in the face of that reality.”

In other words, the district court ruled that because interchange fees are centrally fixed by payment card networks on behalf of the thousands of banks that issue cards with Visa and Mastercard's logos on them, they fall outside the scope of the banking practices covered by the National Banking Act and are fully within the legislative and regulatory jurisdiction of state law.

B. The Act Saves Money for Restaurants, an Engine of the Economy, at a Critical Time When Costs Are Soaring.

The restaurant and foodservice industry is an engine of the Illinois economy. In 2025, the industry accounted for an estimated \$54.4 billion in sales across 26,770 locations.¹⁷ Consumer spending at restaurants has a multiplier effect: every dollar

¹⁷ National Restaurant Association, *Illinois Restaurant Industry at a Glance* (2026), available at https://restaurant.org/getmedia/f8b94755-d755-4f02-bd9e-814170a71431/2026_state_fact_sheets_il.pdf.

spent at table-service restaurants returns approximately \$1.82 to the state's economy.¹⁸ The restaurant industry is also the second-largest private employer in the State, with an estimated 588,100 restaurant and foodservice jobs.¹⁹

Beyond their economic value, restaurants are cultural centers that create unique neighborhood identities and drive commercial revitalization. Restaurants “bring stability to the neighborhoods in which they are located” and they “pay property taxes and have a vested interest in seeing that their neighborhoods continue to grow and thrive so that their own businesses will flourish.”²⁰ That is especially so for the many small restaurants that make up the vast majority of the industry. Restaurants are “a vibrant part of the community and bring a long-term sense of cohesiveness and identity to the area.”²¹ And the restaurant industry is where people learn to work and lead while building life-long careers. Eight in ten restaurant owners started their industry careers in entry-level positions.²² Even more restaurant managers say the same.²³ More women and minorities are managers in the restaurant

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *LMP Servs., Inc. v. City of Chicago*, 160 N.E.3d 822, 827 (Ill. 2019).

²¹ *Id.*

²² National Restaurant Association, *National Statistics: Restaurant Industry Facts at a Glance*, <https://restaurant.org/research-and-media/research/industry-statistics/national-statistics/>

²³ *Id.*

industry than in any other industry, and restaurants provide immigrants with opportunities to work and to own their own businesses.²⁴

Despite the industry's importance, many small restaurant businesses struggle to get by because of thin profit margins, shifting demand, and increasing costs. Interchange fees are to blame, in part, because they are one of the *highest costs* that restaurant operators incur—often just behind food and labor. In 2024, Illinois restaurants and other merchants paid banks and credit card companies *\$507.9 million* in interchange rates on sales taxes alone.²⁵

Nationwide, interchange fees charged on state and local taxes were estimated to cost businesses nearly \$11 billion annually.²⁶ And given that U.S. diners tip about 18% on average, more than double the average sales tax rate, it stands to reason that merchants pay even more in interchange fees on gratuities.²⁷ A single restaurant with \$1 million in annual revenue will spend around \$23,000 in swipe fees per year, nearly half the typical profit margin on that amount of revenue. That is a particularly sizeable amount in an industry where the vast majority of businesses are small—in fact, 95% of Illinois restaurants have fewer than 50 employees.²⁸

²⁴ *Id.*; Americas Soc'y et al., *Bringing Vitality to Main Street: How Immigrant Small Businesses Help Local Economies Grow* (Jan. 2015).

²⁵ Magall Abajobir, *How Much Interchange was Paid on Sales Tax in the U.S.?*, CMSPI Blog (Feb. 2, 2026), <https://cmspi.com/how-much-interchange-was-paid-on-sales-tax-in-the-us/>.

²⁶ *Id.*

²⁷ See Carissa Rawson, et al, *Tipping statistics in the United States for 2024*, USA Today, (Feb. 5, 2024), <https://www.usatoday.com/money/blueprint/credit-cards/tipping-statistics-in-the-us/>.

²⁸ *National Statistics: Restaurant Industry Facts at a Glance*, *supra* note 22.

The skyrocketing cost of interchange fees is only going higher. Today, more than an estimated 8 in 10 restaurant transactions are paid by customers using either a credit or debit card, up from less than 1 in 2 a decade ago. Card networks keep raising fees as card transactions become more popular, exploiting society's increasing shift from cash and checks. Visa and Mastercard combined have raised or created new fees at least *40 times* since 2011, including nearly \$2 billion since 2022 alone, notwithstanding concerns about inflation and pleas not to increase fees again.²⁹

This surge in interchange fees comes at an especially tough time for restaurants. Food and labor costs are up by more than 35% in the last six years, and utility, occupancy, and other costs are up by double-digit percentages as well.³⁰ And in both 2024 and 2025, Chicago raised the minimum tipped wage 8% while also raising the standard minimum wage.³¹ Given these rising costs, a typical restaurant with \$1.5 million in annual sales would have a \$356,000 (nearly 24%) pre-tax loss if they didn't raise consumer prices, compared to making \$45,000 (or a 5%) pre-tax margin in 2019.³² That does not even account for the approximately \$35,000 in swipe fees annually a restaurant with that amount of revenue would typically owe these days.

²⁹ Press Release, Merchants Payments Coalition, *Mastercard Plans to Raise Credit and Debit Fees by Over \$250 Million Despite Settlement* (Apr. 3, 2024), <https://merchantspaymentscoalition.com/mastercard-plans-raise-credit-and-debit-card-fees-over-250-million-despite-settlement>.

³⁰ National Restaurant Association, *Inflation is Straining Restaurant Operations*, <https://restaurant.org/research-and-media/research/inflation/>.

³¹ Abby Bochenek & Caitlin Cannon, *Chicago Phases Out the Tip Credit Starting July 1, 2024*, Littler, <https://www.littler.com/news-analysis/asap/chicago-phases-out-tip-credit-starting-july-1-2024>.

³² Inflation is Straining Restaurant Operations, *supra* note 30.

Interchange fees are egregiously unfair when applied to taxes and gratuities. Restaurants are legally mandated to remit 100% of taxes to state and local governments, doing so entirely at their own expense in Illinois. In other words, restaurants not only pay swipe fees on the amount their diners pay for their meals, but also on the sales tax they are collecting for the state and/or locality. This means that while businesses are collecting and remitting sales tax for the state, financial institutions are making an unfair commission at the businesses' expense without any opportunity for the business to recoup the costs of serving as a tax collector.³³ By imposing interchange fees on these amounts, card networks effectively exact a private toll on restaurants' legal duty to collect and remit sales taxes. This practice amounts to double taxation, forcing restaurants to pay fees on money that isn't even theirs to keep.

Similarly, restaurants are legally required to remit 100% of gratuities to their employees. Interchange fees on these gratuities function as a predatory charge, leaving restaurants with no choice but to absorb the loss on these pass-through funds. Tips are voluntary payments intended for service workers, not revenue retained by operators, and should not be treated as fee-generating income by card networks. When a customer leaves a tip, they expect the full amount to go to the employee who served them. Applying interchange fees to that amount—regardless of who ultimately pays the fee—violates the customer's intent by quietly reducing the value of their tip. This system traps small business restaurants in a lose-lose situation: they

³³ *Id.*

must accept credit cards to remain competitive but are forced to pay fees on money they're legally obligated to pass on.

The impact of these fees is particularly devastating for small, independent restaurants already struggling to survive in a highly competitive market. While seemingly small if analyzed on a transaction-by-transaction basis, these charges accumulate significantly over time to reach the remarkable amounts described above, steadily eroding restaurants' already razor-thin profit margins. For instance, a typical small business restaurant generating \$1 million in annual revenue, with 8% in sales tax and 15% in gratuities, could be losing over \$5,500 per year to interchange fees on these pass-through amounts alone. To this end, 42% of restaurant businesses in 2025 were not profitable, while credit card companies and banks continue to report record profits. Eliminating these unjust fees is not just a commonsense solution—it's a powerful tool to help alleviate the weighty burden on restaurants and other struggling merchants working hard to survive.

C. The Act Presents a Workable Solution for All Parties Within the Payment Ecosystem.

It is important to note that Interchange Fee Prohibition Act is a workable solution for all parties within the payment ecosystem, including restaurant operators and credit card companies. Nearly all modern point-of-sale systems used in restaurants today already separately calculate and identify taxes and gratuities on a customer's receipt, and operators in the state are effectively required to do so by law. They submit one settled transaction after the tax and tip are entered, and the data fields already flag tax and tips as separate line items so that operators can fulfill their

legal obligations of remitting sales taxes to the state as well as tips to their employees. For the smaller number of restaurants using older systems, the legislation allows operators to submit documentation and receive a refund for interchange fees tied to taxes and gratuities—a straightforward process that is similar to today’s chargeback procedures. And, if a restaurant operator does not want to reap the benefits of the Act, they can simply choose to do nothing at all and maintain business as usual.

From a technical perspective, the sales tax amount is part of the data flow in a card transaction referred to as “Level 2” or “Track 2” data. Currently, that data is typically added by the merchant’s card processor to the underlying transaction amount in order to arrive at the total that the interchange fee formula is applied to. Credit card companies already provide corporate accounts with the ability to separately report and track Level 2 data, including taxes. In fact, Visa offers a service known as “Visa Spend Clarity” (formerly known as “IntelliLink”) that sells this Level 2 data back to merchants. Visa makes clear to merchants that “no special hardware or software is required” for their existing service.³⁴ Mastercard offers a similar service where merchants qualify for lower interchange if the merchant transmits Level 2 data, and Fiserv, one of the largest global payment processors, notes that Level 2 data processing “is available to all merchants and provides a rate reduction.”³⁵

³⁴ Visa, *Visa IntelliLink Spend Management*, Web Archive.org (Mar. 25, 2025), <https://web.archive.org/web/20211020044654/https://usa.visa.com/run-your-business/commercial-solutions/solutions/intellilink.html>.

³⁵ Fiserv, *Reduce Commercial Credit Card Processing Costs* (2020), https://merchants.fiserv.com/content/dam/firstdata/us/en/mid-sized-commerce-solutions/pdf/White_Paper_Reduce_Commercial_Credit_Card_Processing_Costs.pdf.

On the other hand, credit card companies could also comply with the requirements posed under the Act by updating their fee schedules to exclude sales taxes and tips before the interchange formula is applied to the purchase, or by moving away from percentage-based interchange fees altogether. Compliance should not be a heavy lift for some of the most sophisticated and profitable global companies in the world that make adjustments to their systems all the time. These same entities already comply with international fee caps and the two-tiered federal debit card fee structure in the U.S.

D. The Act Saves Money for Consumers Amid Soaring Inflation and Helps Protect Jobs Amid Soaring Labor Costs.

The harmful effects of interchange fees extend far beyond restaurant businesses, striking at the heart of all consumers and households. Economists estimate that in 2025, credit card swipe fees siphoned over \$1,200 from the average family.³⁶ That cost matters for the many households who may already be struggling to find time to cook or room in tight budgets for restaurant meals.

Swipe fees impose the greatest hardship on the most vulnerable consumers who lack credit cards or banking relationships. The Hispanic Leadership Fund has

³⁶ Press Release, Merchants Payment Coalition, *Credit and Debit Card 'Swipe' Fees Reach Record \$198.25 Billion as President and Congress Call for Action* (Mar. 18, 2026), <https://merchantspaymentscoalition.com/credit-and-debit-card-swipe-fees-reach-record-19825-billion-president-and-congress-call-action>.

demonstrated that households with income below \$75,000 per year collectively transfer over \$3.5 billion to wealthier households through the credit card system.³⁷ These consumers predominantly use cash, thereby subsidizing card usage by paying inflated prices for groceries, gas, and other goods and services.

The good news is that consumers and workers stand to reap substantial benefits from the elimination interchange fees on taxes and gratuities under the Interchange Fee Prohibition Act, and it is resoundingly popular. According to a 2023 survey, 65% of likely voters support swipe fee reform, including 69% of Democrats, 60% of Republicans, and 66% of independents.³⁸ And swipe-fee reform has garnered support from a philosophical range of consumer advocacy groups like the American Economic Liberties Project, Americans for Financial Reform, the Institute for Self-Reliance, Center for Responsible Lending, Consumer Reports, Demand Progress, and Small Business Rising.³⁹

For consumers, the fee reduction would result in lower overall costs when dining out or making purchases, as businesses would no longer need to factor these fees into their pricing or add surcharges. This cost reduction could lead to increased

³⁷ *New HLF Report Highlights Effect of Retail ‘Swipe Fees’ on Consumers and Small Businesses*, Hispanic Leadership Fund Blog, <https://hispanicleadershipfund.org/new-hlf-report-highlights-effect-of-retail-swipe-fees-on-consumers-and-small-businesses/> (last visited Apr. 9, 2026).

³⁸ Merchants Payments Coalition, *Survey Finds Nearly Two-Thirds of Likely Voters Support Credit Card Swipe Fee Reform* (Sept. 18, 2023), <https://merchantspaymentscoalition.com/survey-finds-nearly-two-thirds-likely-voters-support-credit-card-swipe-fee-reform>

³⁹ Demand Progress, et al, *Letter: Endorsement of Credit Card Swipe Fee Reform Legislation*, <https://demandprogress.org/letter-endorsement-of-credit-card-swipe-fee-reform-legislation/>.

spending power and more frequent patronage of local restaurants. And as the exorbitant cost of swipe fees drops, restaurant operators may have more opportunities to hire additional employees, improve wages and benefits, and ultimately grow to provide additional services to more customers.⁴⁰

CONCLUSION

For the foregoing reasons, *amici curiae* Restaurant Law Center and Illinois Restaurant Association respectfully urge this Court to affirm the district court's grant of partial summary judgment in favor of the Defendant-Appellee / Cross-Appellant, reverse the grant of partial summary judgment in favor of the Plaintiffs-Appellants / Cross-Appellees, and reverse the permanent injunction.

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⁴⁰ *E.g., Restaurants and Hotels Were Helping Power the Booming Job Market. Now, They're Barely Hiring* (July 10, 2024), <https://www.businessinsider.com/hiring-jobs-restaurants-hotels-leisure-hospitality-healthcare-government-2024-7>.

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the typeface requirements of Rule 32(a)(5) of the Federal Rules of Appellate Procedure and Circuit Rule 32, as well as the type style requirements of Rule 32(a)(6) of the Federal Rules of Appellate Procedure, because this brief has been prepared in a proportionally spaced typeface using Microsoft Wordf 365, in 12-point Century Schoolbook font for main text, and 11-point Century Schoolbook font for footnotes. The brief complies with Rule 29(a)(5) of the Federal Rules of Appellate Procedure in that the brief contains 4,643 words, excluding the items set forth in Rule 32(f) of the Federal Rules of Appellate Procedure.

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CERTIFICATE OF SERVICE

I certify that on this date, the foregoing document was electronically filed in this matter with the Clerk of Court, using the CM/ECF system, which sent notification of such filing to all counsel of record.

I further certify that the other participants in this appeal, named below, are CM/ECF users, and thus will be served via the CM/ECF system:

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