Texas's HB3395 Risks Exposing Private Consumer Spending

Say NO to HB3395

Legislators in Texas recently introduced HB3395. The bill claims to save merchants money but would disrupt the retail shopping experience in the state and may allow businesses and governments to track taxpayers' personal spending habits.

The bill seeks to remove interchange fees from the sales tax portion of a transaction without considering the long-term cost, inefficiencies, and frustration its implementation would create.

The current payment system does not have the capability to implement the bill. If it becomes law, **merchants will have two options for complying with HB3395.**

Option 1: Merchants collect sales tax as a separate transaction. This means every time people buy something in the state of Texas, they will complete two transactions at the register – one using cash or check only.

- First they pay for the items they're buying, using any preferred payment method, including cards and mobile payments.
- Then they pay sales tax as a separate transaction - via cash or check.
  - What happens if a valued customer doesn't have cash on hand to cover the sales tax? Does the merchant pay it for the customer? Does the state lose the money? Does the customer have to return the items they just bought?
- With the average cost of cash at 9.1%[1] across retail industries, many will see an increase in their overall operating costs.
- At the gas station, sales tax could no longer be charged as part of the payment at the pump. Customers would have to go inside to pay sales tax – cash or check in hand – requiring around-the clock, onsite staff.
  - This would dramatically change the customer experience at gas stations and increase costs for fuel merchants.
- No longer a line item on a larger receipt, the amount of sales tax Texans pay every time they are out shopping will suddenly be under a microscope.

Speed and efficiency of sales are critical to merchants and consumers. Legislation that would double the time it takes at the checkout counter – or more, given the challenges with handling cash – will only slow down business, add operational costs, and frustrate consumers every time they make a purchase.

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[1] Cash Multipliers - How reducing the costs of cash handling can enable retail sales and profit growth - IHL Group (ihlservices.com) pg 10.

Option 2: Merchants send payment companies every detail of a person's shopping habits.

The global payment system is designed so that payment networks need very little of a consumer's personal information to process a payment. HB3395 could fundamentally change that, requiring the tracking of every detail of a person's shopping habits: **where you shop, exactly what you buy, how often you buy it, how much you spend.**

Current TX Process for Paying Sales Tax	Under HB3395
Today, the only information transmitted from merchants to payment companies is: • How a customer is paying • The total amount of the transaction	To calculate and refund sales tax expenses – which differ by county, city, and item – merchants would also need to send payment companies: • Name of store • Exact location of store • Exact items purchased • Price of each item

In Texas, food products like flour, sugar, milk, eggs are not taxable. However, prepared food like sandwiches, hot drinks and alcoholic beverages are taxable. OTC drugs and medicines are exempt from sales tax. Other items like gasoline and diesel fuel are exempt from sales tax but subject to excise taxes.

To comply with the law, payment companies would be able to tell what Texans were buying. Or if they are buying alcohol and cigarettes and from where. How long until your health insurance company asks for this info? Or your employer?

Private companies should not be in the business of tracking the intimate details of where people shop and what they buy.

HB3395 is disconnected from the way our global payments ecosystem works. It would require an entirely new and less efficient system for Texas and be more expensive for businesses in the state.

It would cost hundreds of millions, perhaps billions, of dollars to create a state-specific overhaul of a global payment ecosystem and would put Texas out of step with the rest of the country and the rest of the world.

EPC Electronic Payments Coalition