

Maple Hill Farm Inn and Conference Center

"Best Green Hotel - Maine" *Yankee Magazine, 2023*

One of "The Best 5 Green Inns and Hotels" *Yankee Magazine, 2017*

"Best Green B & B" *Yankee Magazine Editor's Pick, "Best of New England" 2011*

Greater Augusta's "Best Bed and Breakfast" *Market Surveys of America, Sixteen years running 2007-2022*

Maine's First Certified "Environmental Leader" Green Lodging *Maine Dept. of Environmental Protection, 2005*

One of "30 Great U.S. Inns" *Travel+Leisure, June 2002*

"Best of Both Worlds. Editors' Pick" *Yankee Magazine's Travel Guide to New England, 2002 & 2003*

"Best Bed and Breakfast Hands Down" *Maine Times, 1997*

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TESTIMONY IN SUPPORT OF LD 151

AN ACT TO ALLOW BUSINESSES TO IMPOSE A SURCHARGE ON CREDIT CARD AND DEBIT CARD TRANSACTIONS

Senator Bailey, Representative Gramlich, and Distinguished Members of the Committee:

Maine's small businesses are the heartbeat of our economy. I hope you all agree. I am proudly here today as a Maine native and a small business owner-operator since 1992. I've been an innkeeper for 33 years, and also managed to serve in the Maine legislature for 10 of those same years (1996-2006). Running a brick-and-mortar business in Maine can be a challenge. Our taxes are high, real estate is expensive, heating costs are significant, and yes... we are one of only three states who do not allow a business to *choose* to add a "swipe fee" to cover the costs of credit card payments.

Maine's small businesses depend on the banking industry to finance acquisitions and expansions, and we are extremely grateful to our state's banking sector. But banks are not small businesses. You will hear the banking sector object to this bill, but this makes little sense to me. 47 other states allow businesses the option of adding "swipe fees" to cover the cost of credit card transactions. Only Connecticut and Massachusetts (along with Maine) don't allow businesses to add a surcharge to cover these card processing costs, and these costs can be as much as 4.5% or more for credit cards that offer loyalty points, air miles, or cash back programs.

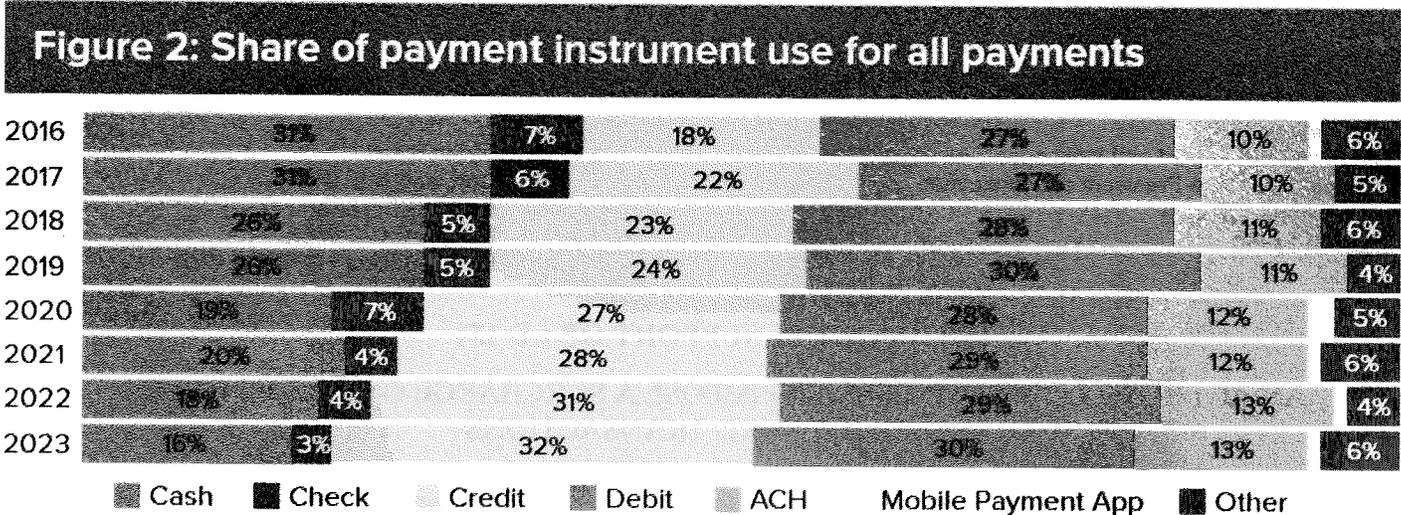
(It's worth noting that you may hear that New York and Oklahoma also don't allow "swipe fees," but New York enacted legislation last year that allows surcharging under very strict rules, and the courts in Oklahoma have ruled that their law restricting credit card surcharges was ruled unconstitutional.)

There are three entities that profit each time a credit card is used:

1. The **issuing bank** (like Chase Bank, Citibank, or a more local bank or credit union).
2. **Card networks** (like Visa, Mastercard, and American Express).
(Note that American Express and Discover are *both* the issuing bank and the card network for their cards).
3. The **payment processor** (like Heartland, Fiserv, or Global Payments).

All of these entities collect fees *every time the card is used* and all of these fees are paid entirely by the business processing the card for their customer. These fees provide a lucrative income stream to all these parts of the financial sector.

You will likely hear from banks and other parts of the financial sector object to this legislation since some customers may choose to pay cash instead of using their credit card if there is a surcharge added for credit card payments. But this would be going against a trend that has been marching steadily toward more credit card use and less cash. Capital One states that 81% of shoppers prefer to pay with cards over cash, and the Federal Reserve shows a consistent increase in the use of credit cards and a steady decrease in the use of cash and checks, as shown in this data plot:



From the 2024 Findings from the Diary of Consumer Payment Choice, Federal Reserve Financial Services

MY PERSONAL EXAMPLE: If we were allowed the option of charging a “swipe fee,” our small business would choose to handle it this way:

1. We have lodging customers and payment is almost exclusively with credit and debit cards. We would most likely choose NOT to add a “swipe fee” to these transactions as that could become an irritant to our customers. We choose to charge one cost to the customer without adding any cleaning fees, resort fees, etc. and we would not want to add a credit card fee, either.
2. We have bar sales and these transactions have transitioned dramatically over the last decade from being predominantly cash to being predominantly paid by cards. I would likely NOT add a swipe fee to our bar sales, and these are mostly small transactions in any case.
3. But a large part of our business is hosting and catering events, often with groups of 100 or more guests. The income from each of these events is much higher than our individual lodging or bar transactions, and therefore the credit card fees can be significant. We WOULD choose to assess a “swipe fee” for payments for the event side of our business. I have personally witnessed a significant transition over the years where all our event payments used to be made by check, but today many of our customers want to pay for their events with a credit card. We have had a policy of not accepting card payments for our events, and this has begun to annoy some of our customers.

State of Maine agencies who hold the occasional event with us want to use their purchasing cards for ease of payment, but we force them to do additional paperwork to go through the state EFT payment system. The same goes for federal government agencies. Our private business customers all want to pay with credit cards, and they are also bothered when they have to set us up as vendors and cut checks to pay us.

And we might host a large wedding where a credit card is presented to pay us and we have to respectfully remind them that we don't accept this form of payment.

I often hear “just add a fee and we're happy to pay it” when they want to pay with a credit card, and I have to painstakingly explain to them that this is not allowed in Maine. They are incredulous that I cannot accommodate the addition of a fee *at their request*. These customers WANT to pay extra in order to pay with a credit card, and I want to be able to accommodate their request.

LACK OF ENFORCEMENT: The current law is also not easily enforced. I have received bills from numerous vendors, both in-state and out-of-state, who add a surcharge if we pay by credit card. I have pointed out the law to some of these vendors, and just paid the fees to others. Surcharging is happening out there because businesses are tired of absorbing this expense. Let's just make it consistent with the rest of the country and allow businesses to make their own decision regarding “swipe fees.”

BURDEN ON COLLECTING SALES TAX: It's also worth noting that businesses collect sales taxes to be submitted to the State. Without the option of adding “swipe fees” to sales transactions, businesses are obligated to absorb the cost of collecting these taxes. For my business, it cost close to \$2000 in credit card fees *just to collect our sales taxes*, and this was certainly not reimbursed by the State.

FAIRNESS: And as you know, governmental entities – local, state, and federal governments – as well as “quasi-governmental” entities – are all allowed to collect a surcharge when collecting payments via credit cards. And rightly so, since the taxpayer shouldn't have to cover these fees! Maine's business community, and especially our small businesses, want this same opportunity, and that is why I support this legislation.

I am proud to have been in the hospitality business for over three decades, and I wouldn't have done it anywhere but home here in Maine. But I'm here today to ask you to help our small businesses just a little bit, and it won't cost the state a penny. Please give us the discretion to try and recoup the significant expense of credit card fees and pass this simple piece of legislation. Thank you.

Sincerely,



Scott Cowger

P.S. We have special discounted legislative rates during any legislative session, and we're just four miles from the State House without even a single traffic light!