

118TH CONGRESS
1ST SESSION

H. R. 4128

To ensure that United States currency is treated as legal tender to be accepted as payment for purchases of goods and services at brick-and-mortar businesses throughout the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 2023

Mr. PAYNE (for himself, Mr. MOONEY, Mr. ROSE, and Mr. MEEKS) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To ensure that United States currency is treated as legal tender to be accepted as payment for purchases of goods and services at brick-and-mortar businesses throughout the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Payment Choice Act
5 of 2023”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that United States cur-
8 rency should be treated as legal tender throughout the

1 United States, and that every consumer should have the
2 right to use cash as payment at retail businesses that ac-
3 cept in-person payments.

4 **SEC. 3. RETAIL BUSINESSES PROHIBITED FROM REFUSING**
5 **CASH PAYMENTS.**

6 (a) IN GENERAL.—Subchapter I of chapter 51 of title
7 31, United States Code, is amended by adding at the end
8 the following:

9 **“§ 5104. Retail businesses prohibited from refusing**
10 **cash payments**

11 “(a) IN GENERAL.—Any person engaged in the busi-
12 ness of selling or offering goods or services at retail to
13 the public who accepts in-person payments at a physical
14 location (including a person accepting payments for tele-
15 phone, mail, or internet-based transactions who is accept-
16 ing in-person payments at a physical location)—

17 “(1) shall accept cash as a form of payment for
18 sales made at such physical location in amounts up
19 to and including \$500 per transaction; and

20 “(2) may not charge cash-paying customers a
21 higher price compared to the price charged to cus-
22 tomers not paying with cash.

23 “(b) EXCEPTIONS.—Subsection (a) shall not apply to
24 a person if the person—

25 “(1) is unable to accept cash because of—

1 “(A) a sale system failure that temporarily
2 prevents processing cash payments; or

3 “(B) temporarily having insufficient cash
4 on hand to make change; or

5 “(2) provides customers with a device that con-
6 verts cash into prepaid cards on the premises if—

7 “(A) there is no fee for the use of the de-
8 vice;

9 “(B) the device does not require a min-
10 imum deposit of more than one dollar;

11 “(C) any funds placed onto a prepaid card
12 using the device do not expire, except as per-
13 mitted under subsection (c);

14 “(D) the device does not collect any per-
15 sonal identifying information from the cus-
16 tomer; and

17 “(E) there is no fee to use the prepaid
18 card that the device produces.

19 “(c) INACTIVITY.—With respect to a prepaid card de-
20 scribed under paragraph (2), the person providing the
21 card may charge an inactivity fee in association with the
22 card if—

23 “(1) there has been no activity with respect to
24 the card during the 12-month period ending on the
25 date on which the inactivity fee is imposed;

1 “(2) not more than 1 inactivity fee is imposed
2 in any 1-month period; and

3 “(3) there is clearly and conspicuously stated,
4 on the face of the mechanism that issues the card
5 and on the card—

6 “(A) that an inactivity fee or charge may
7 be imposed;

8 “(B) the frequency at which such inactivity
9 fee may be imposed; and

10 “(C) the amount of such inactivity fee.

11 “(d) RIGHT TO NOT ACCEPT LARGE BILLS.—

12 “(1) IN GENERAL.—Notwithstanding subsection
13 (a), for the 5-year period beginning on the date of
14 enactment of this section, this section does not re-
15 quire a person or entity to accept cash payments in
16 \$50 bills or any larger bill.

17 “(2) RULEMAKING.—

18 “(A) IN GENERAL.—The Secretary of the
19 Treasury shall issue a rule on the date that is
20 5 years after the date of the enactment of this
21 section with respect to any bill denominations a
22 person is not required to accept.

23 “(B) REQUIREMENT.—When issuing a rule
24 under subparagraph (A), the Secretary shall re-

1 quire persons to accept \$1, \$5, \$10, and \$20
2 bills.

3 “(e) ENFORCEMENT.—

4 “(1) PREVENTATIVE RELIEF.—

5 “(A) IN GENERAL.—Whenever any person
6 has engaged, or there are reasonable grounds to
7 believe that any such person is about to engage,
8 in any act or practice prohibited by this section,
9 any customer or prospective customer of such
10 person aggrieved by such violation or threat-
11 ened violation may deliver to the person, or
12 cause to be so delivered by certified mail, with
13 proof of delivery, a notice describing, in reason-
14 able detail, the conduct or events constituting
15 the violation or threatened violation, and giving
16 notice that, unless such conduct is corrected or
17 cured within 45 days after the date of delivery
18 of such notice, a civil action for preventive re-
19 lief, including an application for a permanent or
20 temporary injunction, restraining order, or
21 other appropriate such relief, which may include
22 a civil penalty as hereinafter provided for, may
23 be brought against such person.

24 “(B) RESPONSE; CURE.—If, within the 45-
25 day period described under subparagraph (A),

1 the person described in that subparagraph es-
2 tablishes to the customer or prospective cus-
3 tomer's reasonable satisfaction, in a response
4 provided in writing to the customer or prospec-
5 tive customer, that no violation occurred as al-
6 leged, or certifies that the violation alleged has
7 been corrected or cured, and provides reason-
8 able assurance that no such violation henceforth
9 will be permitted to occur in the conduct of the
10 person's business, no further proceedings under
11 this section may be undertaken.

12 “(C) CIVIL ACTION.—If a person described
13 under subparagraph (A), having received a no-
14 tice described in that subparagraph, fails to re-
15 spond in accordance with subparagraph (B), or
16 responds but fails to reasonably establish that
17 the violation alleged either did not occur or has
18 been corrected or cured, the aggrieved customer
19 or prospective customer shall be entitled to file
20 a civil action against the person seeking relief
21 as provided under this subsection. In any such
22 filing, the customer or prospective customer
23 shall attach to the complaint in such action cop-
24 ies of the notice given to the person pursuant

1 to subparagraph (A) and the response, if any,
2 received from such person.

3 “(2) DAMAGES AND CIVIL PENALTIES.—Any
4 person who violates this section shall—

5 “(A) be liable for actual damages, together
6 with, if actual damages are less than \$250, liq-
7 uidated damages of \$250; and

8 “(B) a civil penalty of not more than \$500
9 for a first offense and not more than \$1,500 for
10 a second or subsequent offense.

11 “(3) JURISDICTION.—An action under this sub-
12 section may be brought in any United States district
13 court, or in any other court of competent jurisdic-
14 tion.

15 “(4) INTERVENTION OF ATTORNEY GENERAL.—
16 Upon timely application, a court may, in its discre-
17 tion, permit the Attorney General to intervene in a
18 civil action brought under this subsection, if the At-
19 torney General certifies that the action is of general
20 public importance.

21 “(5) AUTHORITY TO APPOINT COURT-PAID AT-
22 TORNEY.—Upon application by an individual and in
23 such circumstances as the court may determine just,
24 the court may appoint an attorney for such indi-
25 vidual and may authorize the commencement of a

1 civil action under this subsection without the pay-
2 ment of fees, costs, or security.

3 “(6) ATTORNEY’S FEES.—In any action com-
4 menced pursuant to this subsection, the court, in its
5 discretion, may allow the prevailing party, other
6 than the United States, a reasonable attorney’s fee,
7 not to exceed \$3,000 in amount, as part of the costs,
8 and the United States shall be liable for costs the
9 same as a private person.

10 “(7) REQUIREMENTS IN CERTAIN STATES AND
11 LOCAL AREAS.—In the case of an alleged act or
12 practice prohibited by this section which occurs in a
13 State, or political subdivision of a State, which has
14 a State or local law prohibiting such act or practice
15 and establishing or authorizing a State or local au-
16 thority to grant or seek relief from such act or prac-
17 tice or to institute criminal proceedings with respect
18 thereto upon receiving notice thereof, no civil action
19 may be brought hereunder before the expiration of
20 30 days after written notice of such alleged act or
21 practice has been given to the appropriate State or
22 local authority by registered mail or in person, pro-
23 vided that the court may stay proceedings in such
24 civil action pending the termination of State or local
25 enforcement proceedings.

1 “(f) GREATER PROTECTION UNDER STATE LAW.—
2 This section shall not preempt any law of a State, the Dis-
3 trict of Columbia, a Tribal government, or a territory of
4 the United States if the protections that such law affords
5 to consumers are greater than the protections provided
6 under this section.

7 “(g) RULEMAKING.—The Secretary of the Treasury
8 shall issue such rules as the Secretary determines are nec-
9 essary to implement this section, which may include pre-
10 scribing additional exceptions to the application of the re-
11 quirements described in subsection (a).”.

12 (b) CLERICAL AMENDMENT.—The table of contents
13 for chapter 51 of title 31, United States Code, is amended
14 by inserting after the item relating to section 5103 the
15 following:

“5104. Retail businesses prohibited from refusing cash payments.”.

○