

118TH CONGRESS
1ST SESSION

S. 1984

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 SENATE OF THE UNITED STATES

JUNE 14, 2023

Mr. MENENDEZ (for himself and Mr. CRAMER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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.—

24 “(1) IN GENERAL.—Subsection (a) shall not
25 apply to a person if—

1 “(A) the person is unable to accept cash
2 because of—

3 “(i) a sale system failure that tempo-
4 rarily prevents the processing of cash pay-
5 ments; or

6 “(ii) temporarily having insufficient
7 cash on hand to make change; or

8 “(B)(i) the person provides customers with
9 a device that converts cash into prepaid cards
10 on the premises;

11 “(ii) there is no fee for the use of the de-
12 vice;

13 “(iii) the device does not require a min-
14 imum deposit of more than one dollar;

15 “(iv) any funds placed onto a prepaid card
16 using the device do not expire, except as per-
17 mitted under paragraph (2);

18 “(v) the device does not collect any per-
19 sonal identifying information from the cus-
20 tomer; and

21 “(vi) there is no fee to use the prepaid
22 card that the device produces.

23 “(2) INACTIVITY.—A person seeking exception
24 from subsection (a) may charge an inactivity fee in
25 association with a card offered by such person if—

1 “(A) there has been no activity with re-
2 spect to the card during the 12-month period
3 ending on the date on which the inactivity fee
4 is imposed;

5 “(B) not more than 1 inactivity fee is im-
6 posed in any 1-month period; and

7 “(C) it is clearly and conspicuously stated,
8 on the face of the mechanism that issues the
9 card and on the card—

10 “(i) that an inactivity fee or charge
11 may be imposed;

12 “(ii) the frequency at which such inac-
13 tivity fee may be imposed; and

14 “(iii) the amount of such inactivity
15 fee.

16 “(c) RIGHT TO NOT ACCEPT LARGE BILLS.—

17 “(1) IN GENERAL.—Notwithstanding subsection
18 (a), for the 5-year period beginning on the date of
19 enactment of this section, this section shall not re-
20 quire a person to accept cash payments in \$50 bills
21 or any larger bill.

22 “(2) RULEMAKING.—

23 “(A) IN GENERAL.—The Secretary shall
24 issue a rule on the date that is 5 years after the
25 date of the enactment of this section with re-

1 spect to any bill denominations a person is not
2 required to accept.

3 “(B) REQUIREMENT.—When issuing a rule
4 under subparagraph (A), the Secretary shall re-
5 quire persons to accept \$1, \$5, \$10 and \$20
6 bills.

7 “(d) ENFORCEMENT.—

8 “(1) PREVENTATIVE RELIEF.—

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

1 a civil penalty under paragraph (2), may be
2 brought against such person.

3 “(B) NO VIOLATION.—If, within the 45-
4 day period under subparagraph (A), the retailer
5 establishes to the reasonable satisfaction of the
6 customer, in a response provided in writing to
7 the customer, that no violation occurred as al-
8 leged, or certifies that the violation alleged has
9 been corrected or cured, and provides reason-
10 able assurance that no such violation will be
11 permitted to occur, no further proceedings
12 under this section shall be undertaken.

13 “(C) FAILURE TO RESPOND.—If a retailer,
14 having received a notice described in subpara-
15 graph (A), fails to respond in accordance with
16 that subparagraph, or responds but fails to rea-
17 sonably establish that the violation alleged did
18 not occur or has been corrected or cured, the
19 aggrieved customer may file a civil action
20 against the retailer seeking relief under this
21 subsection, and shall attach to the complaint in
22 such action copies of the notice given to the re-
23 tailer and any response from the retailer.

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

1 “(A) be liable for actual damages, and, if
2 actual damages are less than \$250, liquidated
3 damages of \$250; and

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

7 “(3) JURISDICTION.—An action under this sec-
8 tion may be brought in any United States district
9 court, or in any other court of competent jurisdic-
10 tion.

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

17 “(5) AUTHORITY TO APPOINT COURT-PAID AT-
18 TORNEY.—Upon application by an individual and in
19 such circumstances as the court may determine just,
20 the court may appoint an attorney for such indi-
21 vidual and may authorize the commencement of a
22 civil action under this subsection without the pay-
23 ment of fees, costs, or security.

24 “(6) ATTORNEY’S FEES.—In any action com-
25 menced pursuant to this section, the court, in its

1 discretion, may allow the prevailing party, other
2 than the United States, a reasonable attorney's fee,
3 not to exceed \$3,000, as part of the costs, and the
4 United States shall be liable for costs the same as
5 a private person.

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

22 “(e) GREATER PROTECTION UNDER STATE LAW.—
23 This section shall not preempt any law of a State, the Dis-
24 trict of Columbia, a Tribal government, or a territory of
25 the United States if the protections that such law affords

1 to consumers are greater than the protections provided
2 under this section.

3 “(f) RULEMAKING.—The Secretary shall issue such
4 rules as the Secretary determines are necessary to imple-
5 ment this section, which may prescribe additional excep-
6 tions to the application of the requirements described in
7 subsection (a).

8 “(g) ANNUAL REPORTS ON THE GEOGRAPHIC DIS-
9 TRIBUTION OF AUTOMATED TELLER MACHINES OWNED
10 BY FEDERALLY INSURED DEPOSITORY INSTITUTIONS.—
11 Beginning on the date that is 1 year after the date of
12 enactment of this section, and annually thereafter, the
13 Federal Deposit Insurance Corporation, with respect to
14 depository institutions insured by the Corporation, and the
15 National Credit Union Administration, with respect to
16 credit unions insured by the National Credit Union Share
17 Insurance Fund, shall submit to the Committee on Bank-
18 ing, Housing, and Urban Affairs of the Senate and the
19 Committee on Financial Services of the House of Rep-
20 resentatives a report that provides—

21 “(1) the number of automated teller machines
22 owned and in service by each institution insured by
23 such agency;

24 “(2) the location of each such automated teller
25 machine that is installed at a fixed site; and

1 “(3) the approximate geographic range or ra-
2 dius within which mobile automated teller machines
3 owned by any such institution are deployed.”.

4 (b) TECHNICAL AND CONFORMING AMENDMENT.—

5 The table of contents for chapter 51 of title 31, United
6 States Code, is amended by inserting after the item relat-
7 ing to section 5103 the following:

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

