

116TH CONGRESS  
2D SESSION

# S. 4145

To amend title 31, United States Code, to prohibit retail businesses from refusing cash payments, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 1, 2020

Mr. MENENDEZ (for himself and Mr. CRAMER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend title 31, United States Code, to prohibit retail businesses from refusing cash payments, 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 2020”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Section 5103 of title 31, United States  
9 Code, provides that United States coins and cur-

1 rency “are legal tender for all debts, public charges,  
2 taxes, and dues”.

3 (2) A growing number of retail establishments,  
4 across the United States, have adopted “cashless  
5 policies”, declaring that they refuse to accept United  
6 States cash payment from their customers and, in-  
7 stead, require that payment for the goods and serv-  
8 ices offered by such retailers be made only with  
9 credit cards, debit cards, or digital payment methods  
10 that result in electronic transfers of funds to the re-  
11 tailer.

12 **SEC. 3. RETAIL BUSINESSES PROHIBITED FROM REFUSING**  
13 **CASH PAYMENTS.**

14 (a) IN GENERAL.—Subchapter I of chapter 51 of title  
15 31, United States Code, is amended by adding at the end  
16 the following:

17 **“§ 5104. Retail businesses prohibited from refusing**  
18 **cash payments**

19 “(a) IN GENERAL.—No person selling or offering  
20 goods or services at retail to the public may—

21 “(1) refuse to accept United States legal tender  
22 of cash as payment for goods or services;

23 “(2) post signs or notices in, on, or about the  
24 business premises of such person stating that cash  
25 payment is not accepted; or

1           “(3) charge a higher price to any customer who  
2           pays by cash than customarily is charged to a cus-  
3           tomer using other forms of payment.

4           “(b) EXCEPTION.—Subsection (a) shall not apply to  
5           any goods or services sold to the public by telephone, mail,  
6           or internet.

7           “(c) ENFORCEMENT.—

8           “(1) PREVENTATIVE RELIEF.—Whenever any  
9           person has engaged, or there are reasonable grounds  
10          to believe that any person is about to engage in any  
11          act or practice prohibited by this section, a civil ac-  
12          tion for preventive relief, including an application for  
13          a permanent or temporary injunction, restraining  
14          order, or other order may be brought against such  
15          person.

16          “(2) CIVIL PENALTIES.—Any person who vio-  
17          lates this section shall—

18                  “(A) be liable for actual damages;

19                  “(B) be fined not more than \$2,500 for a  
20                  first offense; and

21                  “(C) be fined not more than \$5,000 for a  
22                  second or subsequent offense.

23          “(3) JURISDICTION.—An action under this sec-  
24          tion may be brought in an appropriate district court

1 of the United States or appropriate court of com-  
2 petent jurisdiction.

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

9 “(5) AUTHORITY TO APPOINT COURT-PAID AT-  
10 TORNEY.—Upon application by an individual and in  
11 such circumstances as the court may determine just,  
12 the court may—

13 “(A) appoint an attorney for the indi-  
14 vidual; and

15 “(B) authorize the commencement of a  
16 civil action under this subsection without the  
17 payment of fees, costs, or security.

18 “(6) ATTORNEY’S FEES.—In any action com-  
19 menced pursuant to this section—

20 “(A) the court, in its discretion, may allow  
21 the prevailing party, other than the United  
22 States, a reasonable attorney’s fee as part of  
23 the costs; and

24 “(B) the United States shall be liable for  
25 costs in the same manner as a private person.

1           “(7) REQUIREMENTS IN CERTAIN STATES AND  
2 LOCAL AREAS.—

3           “(A) DEFINITION.—In this paragraph, the  
4 term ‘covered jurisdiction’ means a State, or  
5 political subdivision of a State, that has a State  
6 or local law, as applicable—

7           “(i) prohibiting an act or practice pro-  
8 hibited under this section; and

9           “(ii) establishing or authorizing the  
10 State or political subdivision, to—

11           “(I) grant or seek relief from the  
12 act or practice; or

13           “(II) institute criminal pro-  
14 ceedings with respect to the act or  
15 practice.

16           “(B) REQUIREMENTS.—

17           “(i) IN GENERAL.—In the case of an  
18 alleged act or practice prohibited under  
19 this section that occurs in a covered juris-  
20 diction, no civil action may be brought  
21 under this section before the expiration of  
22 the 30-day period beginning on the date on  
23 which the State or political subdivision, as  
24 applicable, receives by registered mail or in

1 person notice of intent to file a civil action  
2 under this section.

3 “(ii) STAY.—The court may stay pro-  
4 ceedings in a civil action described in  
5 clause (i) pending the termination of State  
6 or local enforcement proceedings.”.

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

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

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