

117TH CONGRESS
2D SESSION

S. 4497

To prohibit retail businesses from refusing cash payments, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 23, 2022

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 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 2022”.

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

7 It is the sense of Congress that every consumer has
8 the right to use cash at retail businesses who accept in-
9 person payments.

1 **SEC. 3. RETAIL BUSINESSES PROHIBITED FROM REFUSING**
2 **CASH PAYMENTS.**

3 (a) IN GENERAL.—Subchapter I of chapter 51 of title
4 31, United States Code, is amended by adding at the end
5 the following:

6 **“§ 5104. Retail businesses prohibited from refusing**
7 **cash payments**

8 “(a) IN GENERAL.—Any person engaged in the busi-
9 ness of selling or offering goods or services at retail to
10 the public with a person accepting in-person payments at
11 a physical location (including a person accepting payments
12 for telephone, mail, or internet-based transactions who is
13 accepting in-person payments at a physical location)—

14 “(1) shall accept cash as a form of payment for
15 sales of less than \$2,000 made at such physical loca-
16 tion; and

17 “(2) may not charge cash-paying customers a
18 higher price compared to the price charged to cus-
19 tomers not paying with cash.

20 “(b) EXCEPTIONS.—

21 “(1) IN GENERAL.—Subsection (a) shall not
22 apply to a person if such person—

23 “(A) is unable to accept cash because of—

24 “(i) a sale system failure that tempo-
25 rarily prevents the processing of cash pay-
26 ments; or

1 “(ii) a temporary insufficiency in cash
2 on hand needed to provide change; or

3 “(B) provides customers with the means,
4 on the premises, to convert cash into a card
5 that is either a general-use prepaid card, a gift
6 card, or an access device for electronic fund
7 transfers for which—

8 “(i) there is no fee for the use of the
9 card;

10 “(ii) there is not a minimum deposit
11 amount greater than 1 dollar;

12 “(iii) amounts loaded on the card do
13 not expire, as required under paragraph
14 (2);

15 “(iv) there is no collection of any per-
16 sonal identifying information from the cus-
17 tomer;

18 “(v) there is no fee to use the card;
19 and

20 “(vi) there may be a limit to the num-
21 ber of transactions on such cards.

22 “(2) INACTIVITY.—A person seeking exception
23 from subsection (a) may charge an inactivity fee in
24 association with a prepaid card offered by such per-
25 son 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 bills a person is not required to ac-
2 cept.

3 “(B) REQUIREMENT.—When issuing a rule
4 under subparagraph (A), the Secretary shall re-
5 quire persons to accept \$1, \$5, \$10, \$20, and
6 \$50 bills.

7 “(d) 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 any United States district

1 court, or in any other court of competent jurisdic-
2 tion.

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 appoint an attorney for such indi-
13 vidual and may authorize the commencement of a
14 civil action under this subsection without the pay-
15 ment of fees, costs, or security.

16 “(6) ATTORNEY’S FEES.—In any action com-
17 menced pursuant to this section, the court, in its
18 discretion, may allow the prevailing party, other
19 than the United States, a reasonable attorney’s fee
20 as part of the costs, and the United States shall be
21 liable for costs the same as a private person.

22 “(7) REQUIREMENTS IN CERTAIN STATES AND
23 LOCAL AREAS.—In the case of an alleged act or
24 practice prohibited by this section which occurs in a
25 State, or political subdivision of a State, which has

1 a State or local law prohibiting such act or practice
2 and establishing or authorizing a State or local au-
3 thority to grant or seek relief from such act or prac-
4 tice or to institute criminal proceedings with respect
5 thereto upon receiving notice thereof, no civil action
6 may be brought hereunder before the expiration of
7 30 days after written notice of such alleged act or
8 practice has been given to the appropriate State or
9 local authority by registered mail or in person, pro-
10 vided that the court may stay proceedings in such
11 civil action pending the termination of State or local
12 enforcement proceedings.

13 “(e) GREATER PROTECTION UNDER STATE LAW.—
14 This section shall not preempt any law of a State, the Dis-
15 trict of Columbia, a Tribal government, or a territory of
16 the United States if the protections that such law affords
17 to consumers are greater than the protections provided
18 under this section.

19 “(f) RULEMAKING.—The Secretary shall issue such
20 rules as the Secretary determines are necessary to imple-
21 ment this section, which may prescribe additional excep-
22 tions to the application of the requirements described in
23 subsection (a).

24 “(g) ANNUAL REPORTS ON THE GEOGRAPHIC DIS-
25 TRIBUTION OF AUTOMATED TELLER MACHINES OWNED

1 BY FEDERALLY INSURED DEPOSITORY INSTITUTIONS.—
 2 Beginning on the date that is 1 year after the date of
 3 enactment of this section, and annually thereafter, the
 4 Federal Deposit Insurance Corporation, with respect to
 5 depository institutions insured by the Corporation, and the
 6 National Credit Union Administration, with respect to
 7 credit unions insured by the National Credit Union Share
 8 Insurance Fund, shall submit the Committee on Banking,
 9 Housing, and Urban Affairs of the Senate and the Com-
 10 mittee on Financial Services of the House of Representa-
 11 tives a report that provides—

12 “(1) the number of automated teller machines
 13 owned and in service by each institution insured by
 14 such agency;

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

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

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

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