117th Congress
2d Session

S.

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

IN THE SENATE OF THE UNITED STATES

Mr. Menendez (for himself and Mr. Cramer) introduced the following bill; which was read twice and referred to the Committee on

A BILL

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Payment Choice Act of 2022”.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that every consumer has the right to use cash at retail businesses who accept in-

person payments.
SEC. 3. RETAIL BUSINESSES PROHIBITED FROM REFUSING CASH PAYMENTS.

(a) In General.—Subchapter I of chapter 51 of title 31, United States Code, is amended by adding at the end the following:

“§ 5104. Retail businesses prohibited from refusing cash payments

“(a) In General.—Any person engaged in the business of selling or offering goods or services at retail to the public with a person accepting in-person payments at a physical location (including a person accepting payments for telephone, mail, or internet-based transactions who is accepting in-person payments at a physical location)—

“(1) shall accept cash as a form of payment for sales of less than $2,000 made at such physical location; and

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

“(b) Exceptions.—

“(1) In General.—Subsection (a) shall not apply to a person if such person—

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

“(i) a sale system failure that temporarily prevents the processing of cash payments; or
“(ii) a temporary insufficiency in cash on hand needed to provide change; or

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

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

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

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

“(iv) there is no collection of any personal identifying information from the customer;

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

“(vi) there may be a limit to the number of transactions on such cards.

“(2) INACTIVITY.—A person seeking exception from subsection (a) may charge an inactivity fee in association with a prepaid card offered by such person if—
“(A) there has been no activity with respect to the card during the 12-month period ending on the date on which the inactivity fee is imposed;

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

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

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

“(ii) the frequency at which such inactivity fee may be imposed; and

“(iii) the amount of such inactivity fee.

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

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

“(2) RULEMAKING.—

“(A) IN GENERAL.—The Secretary shall issue a rule on the date that is 5 years after the date of the enactment of this section with re-
spect to any bills a person is not required to ac-
cept.

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

“(d) Enforcement.—

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

“(2) Civil penalties.—Any person who vio-
lates this section shall—

“(A) be liable for actual damages;

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

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

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

tion.

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

“(5) Authority to appoint court-paid at-
torney.—Upon application by an individual and in
such circumstances as the court may determine just,
the court may appoint an attorney for such indi-
vidual and may authorize the commencement of a
civil action under this subsection without the pay-
ment of fees, costs, or security.

“(6) Attorney’s fees.—In any action com-
enced pursuant to this section, the court, in its
discretion, may allow the prevailing party, other
than the United States, a reasonable attorney’s fee
as part of the costs, and the United States shall be
liable for costs the same as a private person.

“(7) Requirements in certain states and
local areas.—In the case of an alleged act or
practice prohibited by this section which occurs in a
State, or political subdivision of a State, which has
a State or local law prohibiting such act or practice and establishing or authorizing a State or local authority to grant or seek relief from such act or practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no civil action may be brought hereunder before the expiration of 30 days after written notice of such alleged act or practice has been given to the appropriate State or local authority by registered mail or in person, provided that the court may stay proceedings in such civil action pending the termination of State or local enforcement proceedings.

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

“(f) RULEMAKING.—The Secretary shall issue such rules as the Secretary determines are necessary to implement this section, which may prescribe additional exceptions to the application of the requirements described in subsection (a).

“(g) ANNUAL REPORTS ON THE GEOGRAPHIC DISTRIBUTION OF AUTOMATED TELLER MACHINES OWNED
BY FEDERALLY INSURED DEPOSITORY INSTITUTIONS.—

Beginning on the date that is 1 year after the date of enactment of this section, and annually thereafter, the Federal Deposit Insurance Corporation, with respect to depository institutions insured by the Corporation, and the National Credit Union Administration, with respect to credit unions insured by the National Credit Union Share Insurance Fund, shall submit the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that provides—

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

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

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

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

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