

1 Title: To ensure that United States currency is treated as legal tender to be accepted as payment
2 for purchases of goods and services at brick-and-mortar businesses throughout the United States,
3 and for other purposes.
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6 Be it enacted by the Senate and House of Representatives of the United States of America in
7 Congress assembled,

8 SECTION 1. SHORT TITLE.

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

10 SEC. 2. SENSE OF CONGRESS.

11 It is the sense of Congress that United States currency should be treated as legal tender
12 throughout the United States, and that every consumer should have the right to use cash as
13 payment at retail businesses that accept in-person payments.

14 SEC. 3. RETAIL BUSINESSES PROHIBITED FROM 15 REFUSING CASH PAYMENTS.

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

18 “5104. Retail businesses prohibited from refusing cash payments

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

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

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

27 “(b) Exceptions.—

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

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

30 “(i) a sale system failure that temporarily prevents the processing of cash
31 payments; or

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

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

35 “(ii) there is no fee for the use of the device;

36 “(iii) the device does not require a minimum deposit of more than one dollar;

1 “(iv) any funds placed onto a prepaid card using the device do not expire, except as
2 permitted under paragraph (2);

3 “(v) the device does not collect any personal identifying information from the
4 customer; and

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

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

8 “(A) there has been no activity with respect to the card during the 12-month period
9 ending on the date on which the inactivity fee is imposed;

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

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

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

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

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

16 “(c) Right to Not Accept Large Bills.—

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

20 “(2) RULEMAKING.—

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

24 “(B) REQUIREMENT.—When issuing a rule under subparagraph (A), the Secretary
25 shall require persons to accept \$1, \$5, \$10 and \$20 bills.

26 “(d) Enforcement.—

27 “(1) PREVENTATIVE RELIEF.—

28 “(A) IN GENERAL.—Whenever any person has engaged, or there are reasonable
29 grounds to believe that any person is about to engage, in any act or practice prohibited
30 by this section, any customer or prospective customer of such person aggrieved by
31 such violation or threatened violation may deliver to the retailer, or cause to be so
32 delivered by certified mail, with proof of delivery, a notice describing, in reasonable
33 detail, the conduct or events constituting the violation or threatened violation, and
34 giving notice that, unless such conduct is corrected or cured within 45 days after the
35 date of delivery of such notice, a civil action for preventative relief, including an
36 application for a permanent or temporary injunction, restraining order, or other
37 appropriate such relief, which may include a civil penalty under paragraph (2), may be
38 brought against such person.

39 “(B) NO VIOLATION.—If, within the 45-day period under subparagraph (A), the

1 retailer establishes to the reasonable satisfaction of the customer, in a response
2 provided in writing to the customer, that no violation occurred as alleged, or certifies
3 that the violation alleged has been corrected or cured, and provides reasonable
4 assurance that no such violation will be permitted to occur, no further proceedings
5 under this section shall be undertaken.

6 “(C) FAILURE TO RESPOND.—If a retailer, having received a notice described in
7 subparagraph (A), fails to respond in accordance with that subparagraph, or responds
8 but fails to reasonably establish that the violation alleged did not occur or has been
9 corrected or cured, the aggrieved customer may file a civil action against the retailer
10 seeking relief under this subsection, and shall attach to the complaint in such action
11 copies of the notice given to the retailer and any response from the retailer.

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

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

15 “(B) a civil penalty of not more than \$500 for a first offense and not more than
16 \$1,500 for a second or subsequent offense.

17 “(3) JURISDICTION.—An action under this section may be brought in any United States
18 district court, or in any other court of competent jurisdiction.

19 “(4) INTERVENTION OF ATTORNEY GENERAL.—Upon timely application, a court may, in
20 its discretion, permit the Attorney General to intervene in a civil action brought under this
21 subsection, if the Attorney General certifies that the action is of general public importance.

22 “(5) AUTHORITY TO APPOINT COURT-PAID ATTORNEY.—Upon application by an individual
23 and in such circumstances as the court may determine just, the court may appoint an
24 attorney for such individual and may authorize the commencement of a civil action under
25 this subsection without the payment of fees, costs, or security.

26 “(6) ATTORNEY’S FEES.—In any action commenced pursuant to this section, the court, in
27 its discretion, may allow the prevailing party, other than the United States, a reasonable
28 attorney’s fee, not to exceed \$3,000, as part of the costs, and the United States shall be
29 liable for costs the same as a private person.

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

39 “(e) Greater Protection Under State Law.—This section shall not preempt any law of a State,
40 the District of Columbia, a Tribal government, or a territory of the United States if the
41 protections that such law affords to consumers are greater than the protections provided under
42 this section.

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

4 “(g) Annual Reports on the Geographic Distribution of Automated Teller Machines Owned by
5 Federally Insured Depository Institutions.—Beginning on the date that is 1 year after the date of
6 enactment of this section, and annually thereafter, the Federal Deposit Insurance Corporation,
7 with respect to depository institutions insured by the Corporation, and the National Credit Union
8 Administration, with respect to credit unions insured by the National Credit Union Share
9 Insurance Fund, shall submit the Committee on Banking, Housing, and Urban Affairs of the
10 Senate and the Committee on Financial Services of the House of Representatives a report that
11 provides—

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

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

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

18 (b) Technical and Conforming Amendment.—The table of contents for chapter 51 of title 31,
19 United States Code, is amended by inserting after the item relating to section 5103 the following:
20 “5104. Retail businesses prohibited from refusing cash payments.”.