

AMENDMENT TO THE RULES COMMITTEE PRINT

118-10

OFFERED BY MR. PAYNE OF NEW JERSEY

In subtitle C of title XVIII of division A, add at the end the following:

1 **SEC. 1859. PAYMENT CHOICE.**

2 (a) SENSE OF CONGRESS.—It is the sense of Con-
3 gress that United States needs cash payments as a matter
4 of national security since cash can be used during a na-
5 tional disaster or if online and electronic payment systems
6 go down.

7 (b) RETAIL BUSINESSES PROHIBITED FROM REFUS-
8 ING CASH PAYMENTS.—

9 (1) IN GENERAL.—Subchapter I of chapter 51
10 of title 31, United States Code, is amended by add-
11 ing at the end the following:

12 **“§ 5104. Retail businesses prohibited from refusing**
13 **cash payments**

14 “(a) IN GENERAL.—Any person engaged in the busi-
15 ness of selling or offering goods or services at retail to
16 the public who accepts in-person payments at a physical
17 location (including a person accepting payments for tele-

1 phone, mail, or internet-based transactions who is accept-
2 ing in-person payments at a physical location)—

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

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

9 “(b) EXCEPTIONS.—Subsection (a) shall not apply to
10 a person if the person—

11 “(1) is unable to accept cash because of—

12 “(A) a sale system failure that temporarily
13 prevents processing cash payments; or

14 “(B) temporarily having insufficient cash
15 on hand to make change; or

16 “(2) provides customers with a device that con-
17 verts cash into prepaid cards on the premises if—

18 “(A) there is no fee for the use of the de-
19 vice;

20 “(B) the device does not require a min-
21 imum deposit of more than one dollar;

22 “(C) any funds placed onto a prepaid card
23 using the device do not expire, except as per-
24 mitted under subsection (c);

1 “(D) the device does not collect any per-
2 sonal identifying information from the cus-
3 tomer; and

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

6 “(c) INACTIVITY.—With respect to a prepaid card de-
7 scribed under paragraph (2), the person providing the
8 card may charge an inactivity fee in association with the
9 card if—

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

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

15 “(3) there is clearly and conspicuously stated,
16 on the face of the mechanism that issues the card
17 and on the card—

18 “(A) that an inactivity fee or charge may
19 be imposed;

20 “(B) the frequency at which such inactivity
21 fee may be imposed; and

22 “(C) the amount of such inactivity fee.

23 “(d) RIGHT TO NOT ACCEPT LARGE BILLS.—

24 “(1) IN GENERAL.—Notwithstanding subsection
25 (a), for the 5-year period beginning on the date of

1 enactment of this section, this section does not re-
2 quire a person or entity to accept cash payments in
3 \$50 bills or any larger bill.

4 “(2) RULEMAKING.—

5 “(A) IN GENERAL.—The Secretary of the
6 Treasury shall issue a rule on the date that is
7 5 years after the date of the enactment of this
8 section with respect to any bill denominations a
9 person is not required to accept.

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

14 “(e) ENFORCEMENT.—

15 “(1) PREVENTATIVE RELIEF.—

16 “(A) IN GENERAL.—Whenever any person
17 has engaged, or there are reasonable grounds to
18 believe that any such person is about to engage,
19 in any act or practice prohibited by this section,
20 any customer or prospective customer of such
21 person aggrieved by such violation or threat-
22 ened violation may deliver to the person, or
23 cause to be so delivered by certified mail, with
24 proof of delivery, a notice describing, in reason-
25 able detail, the conduct or events constituting

1 the violation or threatened violation, and giving
2 notice that, unless such conduct is corrected or
3 cured within 45 days after the date of delivery
4 of such notice, a civil action for preventive re-
5 lief, including an application for a permanent or
6 temporary injunction, restraining order, or
7 other appropriate such relief, which may include
8 a civil penalty as hereinafter provided for, may
9 be brought against such person.

10 “(B) RESPONSE; CURE.—If, within the 45-
11 day period described under subparagraph (A),
12 the person described in that subparagraph es-
13 tablishes to the customer or prospective cus-
14 tomer’s reasonable satisfaction, in a response
15 provided in writing to the customer or prospec-
16 tive customer, that no violation occurred as al-
17 leged, or certifies that the violation alleged has
18 been corrected or cured, and provides reason-
19 able assurance that no such violation henceforth
20 will be permitted to occur in the conduct of the
21 person’s business, no further proceedings under
22 this section may be undertaken.

23 “(C) CIVIL ACTION.—If a person described
24 under subparagraph (A), having received a no-
25 tice described in that subparagraph, fails to re-

1 spond in accordance with subparagraph (B), or
2 responds but fails to reasonably establish that
3 the violation alleged either did not occur or has
4 been corrected or cured, the aggrieved customer
5 or prospective customer shall be entitled to file
6 a civil action against the person seeking relief
7 as provided under this subsection. In any such
8 filing, the customer or prospective customer
9 shall attach to the complaint in such action cop-
10 pies of the notice given to the person pursuant
11 to subparagraph (A) and the response, if any,
12 received from such person.

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

15 “(A) be liable for actual damages, together
16 with, if actual damages are less than \$250, liq-
17 uidated damages of \$250; and

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

21 “(3) JURISDICTION.—An action under this sub-
22 section may be brought in any United States district
23 court, or in any other court of competent jurisdic-
24 tion.

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

7 “(5) AUTHORITY TO APPOINT COURT-PAID AT-
8 TORNEY.—Upon application by an individual and in
9 such circumstances as the court may determine just,
10 the court may appoint an attorney for such indi-
11 vidual and may authorize the commencement of a
12 civil action under this subsection without the pay-
13 ment of fees, costs, or security.

14 “(6) ATTORNEY’S FEES.—In any action com-
15 menced pursuant to this subsection, the court, in its
16 discretion, may allow the prevailing party, other
17 than the United States, a reasonable attorney’s fee,
18 not to exceed \$3,000 in amount, as part of the costs,
19 and the United States shall be liable for costs the
20 same as a private person.

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

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

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

18 “(g) RULEMAKING.—The Secretary of the Treasury
19 shall issue such rules as the Secretary determines are nec-
20 essary to implement this section, which may include pre-
21 scribing additional exceptions to the application of the re-
22 quirements described in subsection (a).”.

23 (2) CLERICAL AMENDMENT.—The table of con-
24 tents for chapter 51 of title 31, United States Code,

1 is amended by inserting after the item relating to
2 section 5103 the following:

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

