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:

SEC. 1859. PAYMENT CHOICE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that United States needs cash payments as a matter of national security since cash can be used during a national disaster or if online and electronic payment systems go down.

(b) RETAIL BUSINESSES PROHIBITED FROM REFUSING CASH PAYMENTS.—

(1) 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 who accepts in-person payments at a physical location (including a person accepting payments for tele-
phone, 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 made at such physical location in amounts up to and including $500 per transaction; and

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

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

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

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

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

“(2) provides customers with a device that converts cash into prepaid cards on the premises if—

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

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

“(C) any funds placed onto a prepaid card using the device do not expire, except as permitted under subsection (c);
“(D) the device does not collect any personal identifying information from the customer; and

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

“(e) INACTIVITY.—With respect to a prepaid card described under paragraph (2), the person providing the card may charge an inactivity fee in association with the card if—

“(1) 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;

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

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

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

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

“(C) the amount of such inactivity fee.

“(d) 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 does not re-
quire a person or entity to accept cash payments in
$50 bills or any larger bill.

“(2) Rulemaking.—

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

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

“(e) Enforcement.—

“(1) Preventative relief.—

“(A) In general.—Whenever any person
has engaged, or there are reasonable grounds to
believe that any such person is about to engage,
in any act or practice prohibited by this section,
any customer or prospective customer of such
person aggrieved by such violation or threat-
ened violation may deliver to the person, or
cause to be so delivered by certified mail, with
proof of delivery, a notice describing, in reason-
able detail, the conduct or events constituting
the violation or threatened violation, and giving notice that, unless such conduct is corrected or cured within 45 days after the date of delivery of such notice, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other appropriate such relief, which may include a civil penalty as hereinafter provided for, may be brought against such person.

“(B) RESPONSE; CURE.—If, within the 45-day period described under subparagraph (A), the person described in that subparagraph establishes to the customer or prospective customer’s reasonable satisfaction, in a response provided in writing to the customer or prospective customer, that no violation occurred as alleged, or certifies that the violation alleged has been corrected or cured, and provides reasonable assurance that no such violation henceforth will be permitted to occur in the conduct of the person’s business, no further proceedings under this section may be undertaken.

“(C) CIVIL ACTION.—If a person described under subparagraph (A), having received a notice described in that subparagraph, fails to re-
respond in accordance with subparagraph (B), or
responds but fails to reasonably establish that
the violation alleged either did not occur or has
been corrected or cured, the aggrieved customer
or prospective customer shall be entitled to file
a civil action against the person seeking relief
as provided under this subsection. In any such
filing, the customer or prospective customer
shall attach to the complaint in such action cop-
ies of the notice given to the person pursuant
to subparagraph (A) and the response, if any,
received from such person.

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

“(A) be liable for actual damages, together
with, if actual damages are less than $250, liq-
idated damages of $250; and

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

“(3) JURISDICTION.—An action under this sub-
section may be brought in any United States district
court, or in any other court of competent jurisdi-
cation.
“(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-
menced pursuant to this subsection, the court, in its
discretion, may allow the prevailing party, other
than the United States, a reasonable attorney’s fee,
not to exceed $3,000 in amount, 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 au-
thority to grant or seek relief from such act or prac-
tice 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, pro-
vided that the court may stay proceedings in such
civil action pending the termination of State or local
enforcement proceedings.

“(f) GREATER PROTECTION UNDER STATE LAW.—
This section shall not preempt any law of a State, the Dis-
trict 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.

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

(2) CLERICAL AMENDMENT.—The table of con-
tents 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.”