



SPONSOR: Rep. Brady & Sen. Lockman  
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Morrison, K. Williams; Sens. S. McBride, Walsh

HOUSE OF REPRESENTATIVES  
151st GENERAL ASSEMBLY

HOUSE BILL NO. 97

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO PROHIBITED TRADE PRACTICES  
AND PAY WITH CASH.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

CHAPTER 25G. Consumer Equal Access Protection Act.

§ 2501G Purpose.

It is the policy of the state of Delaware to promote equal consumer access to the purchase of goods or services at retail stores and to prevent discrimination against lower income and immigrant consumers based on limited access to credit or banking services. Retail stores that do not accept cash as payment for goods or services discriminate against consumers who must pay with cash. By prohibiting cashless retail, Delaware will prevent retail stores from discriminating against these consumers.

The State of Delaware further finds that growth of cashless retail will lead to the elimination of numerous jobs the duties of which include checking out consumers. Protection of these jobs will further protect consumers who pay with cash. It will also support the growth of Delaware's economy and job market. By prohibiting cashless retail, Delaware can also protect these jobs and promote job growth in the future.

§ 2502G Definitions.

For purposes of this chapter:

(a) "Consumer goods and services" means any product, merchandise, food, or service retail stores offer for sale or lease.

(b) "Retail store" means an establishment where consumer goods or services are offered for sale or lease. The term does not include any of the following:

(1) Telephone, mail or internet transactions.

(2) Parking lots and parking garages.

(3) Transactions at wholesale clubs that sell consumer goods and services through a membership model.

(4) Transactions at retail stores selling consumer goods exclusively through a membership model that requires payment by means of an affiliated mobile device application.

(5) Transactions for the rental of consumer goods, services, or accommodations for which the posting of collateral or security is typically required.

(6) Consumer goods or services provided exclusively to employees and others authorized to be on the employer's premises.

(c) "Company" means the entity that owns or operates retail stores.

§ 2503G Protecting consumers who pay with cash.

(a) It shall be an unlawful practice for a retail store to refuse to accept cash from any consumer as payment for consumer goods or services.

(b) No retail store shall discriminate against a consumer paying with cash by treating that consumer differently in any manner from a consumer paying by a non-cash method, including any of the following:

(1) Charging a higher price to consumers who pay with cash, but it may charge less to consumers who pay with cash.

(2) Requiring consumers paying with cash to use automated machines that convert cash into prepaid cards.

(3) Having fewer checkout locations for consumers paying with cash than for consumers paying using non-cash methods.

§ 2504G Enforcement and Penalties.

(a) A violation of this section shall be an unlawful practice under § 2513 of this title and violation of Subchapter II of Chapter 25 of this title.

(b) The Division of Consumer Protection is authorized to interpret, implement, and enforce this chapter, including to issue regulations. Any regulations the Division of Consumer Protection promulgates shall have the force and effect of law and may be relied on to determine rights and responsibilities under this chapter.

(c) A company whose retail store violates this chapter is liable for civil penalties in amounts adjusted for the number of violations and its annual gross sales.

(1) For first violations, companies are liable for civil penalties up to \$1,000.

(2) For second violations, companies are liable for civil penalties up to \$1,500.

(3) For third and subsequent violations, companies are liable for civil penalties up to \$2,500.

§ 2505G Private Right of Action.

52           (a) In addition to the authority vested in the Division of Consumer Protection to enforce the provisions of this  
53 chapter under Title 29, § 2520 of the Delaware Code, a consumer who is denied the opportunity to pay in cash is entitled to  
54 bring an action in a court of appropriate jurisdiction against the company for the following:

55                   (1) All damages, including consequential damages, caused by a company's second or subsequent violation.

56                   (2) Subsequent violations entitle an aggrieved consumer to damages as follows:

57                         a. A second violation, double the damages caused by the violation.

58                         b. A third or subsequent violation, triple the damages caused by the violation.

59                   (b) A prevailing consumer shall be entitled to all expenses incurred in pursuing the action, including reasonable  
60 attorneys' fees and litigation expenses.

61                   (c) Private rights of action claims must be filed no later than three years after the violation.

62                   § 2506G Miscellaneous.

63                   This chapter shall be liberally construed to effectuate its purpose. If a court declares any provision or application  
64 of this chapter to be illegal, the remaining provisions shall remain in effect. Courts are hereby authorized to reform the  
65 provisions of this chapter in order to preserve its maximum lawful effect.

66                   § 2507G Effective Date.

67                   This Act takes effect upon promulgation of regulations adopted under this chapter, or 6 months following  
68 enactment, whichever occurs first.

#### SYNOPSIS

This Act prohibits the seller of consumer goods or services from refusing to accept cash payment, except in limited circumstances. It creates graduated civil penalties for violations and provides consumers a private right of action to recover double damages, including consequential damages, for a second violation of the law and triple damages for subsequent violations. The Division of Consumer Protection has authority to enforce the law.