SPONSOR: Rep. Cooke & Rep. Dorsey Walker & Sen. Walsh
Reps. Baumbach, Bolden, Griffith, K. Johnson, Kowalko, Lambert, Morrison, Osienski, K. Williams, Wilson-Anton; Sens. Gay, Hansen, Lockman, S. McBride

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 299
AS AMENDED BY
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO PROHIBITED TRADE PRACTICES FORBIDDING DISCRIMINATION AGAINST CASH PAYMENTS BY CONSUMERS.

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 this State to promote equal consumer access to 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 sales, Delaware will prevent retail stores from discriminating against these consumers.

The State further finds that growth of cashless retail sales 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, the State will protect jobs and promote job growth in the future.

§ 2502G. Definitions.

For purposes of this chapter:

(a) "Cash" means currency of the United States.

(b) "Consumer" means an individual who purchases consumer goods or services.

(c) "Consumer goods and services" means any product, merchandise, food, or service retail stores offer for sale or lease, but does not include goods and services provided by an electric or natural gas public utility.

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

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(1) Telephone, mail or internet transactions.

(2) Parking lots and parking garages.

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

(4) Transactions at any sporting or entertainment event, including music festivals.

(e) "Company" means the entity that owns or operates a retail store.

§ 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. This paragraph does not apply to a food store or retail establishment that provides a device on premises that converts cash into a prepaid card that allows a consumer to complete a transaction at such food store or retail establishments so long as the device on premises does all of the following:

a. Upon request, provides each customer with a receipt indicating the amount of cash such consumer deposited onto the prepaid card

b. Does not charge any fee or requires a deposit amount greater than $5.00.

c. Provides a prepaid card that is not subject to an expiration date, and has no limit on the number of transactions that may be completed with such card.

§ 2504G. Enforcement and Penalties.

(a) A violation of this section shall be an unlawful practice under § 2513 of this title and a 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 a first violation, a company is liable for civil penalties up to $1,000.

(2) For a second violation, a company is liable for civil penalties up to $1,500.

(3) For third and subsequent violations, a company is liable for civil penalties up to $2,500.

§ 2505G. Miscellaneous.

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

§ 2506G. Effective Date.

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

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