AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4395
OFFERED BY MS. GARCIA OF TEXAS

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.
This Act may be cited as the “Payment Choice Act of 2022”.

SEC. 2. SENSE OF CONGRESS.
It is the sense of Congress that every consumer has the right to use cash at retail businesses who accept in-person payments.

SEC. 3. RETAIL BUSINESSES PROHIBITED FROM REFUSING CASH PAYMENTS.
(a) 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 with a person accepting in-person payments at a physical location (including a person accepting payments
for telephone, 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 of less than $2,000 made at such physical location; and

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

“(b) EXCEPTIONS.—

“(1) In general.—Subsection (a) shall not apply to a person if such person—

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

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

“(ii) a temporary insufficiency in cash on hand needed to provide change; or

“(B) provides customers with the means, on the premises, to convert cash into a card that is either a general-use prepaid card, a gift card, or an access device for electronic fund transfers for which—

“(i) there is no fee for the use of the card;
“(ii) there is not a minimum deposit amount greater than 1 dollar;

“(iii) amounts loaded on the card do not expire, except as permitted under paragraph (2);

“(iv) there is no collection of any personal identifying information from the customer;

“(v) there is no fee to use the card; and

“(iv) there may be a limit to the number of transactions.

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

“(A) 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;

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

“(C) it is clearly and conspicuously stated, on the face of the mechanism that issues the card and on the card—
“(i) that an inactivity fee or charge may be imposed;
“(ii) the frequency at which such inactivity fee may be imposed; and
“(iii) the amount of such inactivity fee.

“(e) 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 shall not require a person to accept cash payments in $50 bills or any larger bill.

“(2) RULEMAKING.—
“(A) IN GENERAL.—The Secretary of the Treasury, in this section referred to as the Secretary, shall issue a rule on the date that is 5 years after the date of the enactment of this section with respect to any bills a person is not required to accept.

“(B) REQUIREMENT.—When issuing a rule under subparagraph (A), the Secretary shall require persons to accept $1, $5, $10, $20, and $50 bills.

“(f) ENFORCEMENT.—
“(1) PREVENTATIVE RELIEF.—Whenever any person has engaged, or there are reasonable grounds to believe that any person is about to engage, in any act or practice prohibited by this section, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order may be brought against such person.

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

“(A) be liable for actual damages;

“(B) be fined not more than $2,500 for a first offense; and

“(C) be fined not more than $5,000 for a second or subsequent offense.

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

“(4) INTERVENTION OF ATTORNEY GENERAL.—Upon timely application, a court may, in its discretion, permit the Attorney General to intervene in a civil action brought under this subsection, if the Attorney General certifies that the action is of general public importance.
“(5) Authority to appoint court-paid attorney.—Upon application by an individual and in such circumstances as the court may determine just, the court may appoint an attorney for such individual and may authorize the commencement of a civil action under this subsection without the payment of fees, costs, or security.

“(6) Attorney’s fees.—In any action commenced pursuant to this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney’s fee 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 authority to grant or seek relief from such act or practice 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.

“(g) 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.

“(h) RULEMAKING.—The Secretary shall issue such
rules as the Secretary determines are necessary to imple-
ment this section, which may prescribe additional excep-
tions to the application of the requirements described in
subsection (a).”.

(b) CLERICAL AMENDMENT.—The table of contents
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.”.