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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Legislative Budget
Office

S.B. 38
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Blessing

Logan Briggs, Attorney

SUMMARY

- Requires retail merchants to give customers the option to pay in cash.
- Exempts from the requirements to accept cash certain airport terminal vendors, parking facilities, motor vehicle renting companies, entertainment venues, and establishments that use a device to convert a customer's cash into a prepaid card.

DETAILED ANALYSIS

Under federal law, United States coins and currency are legal tender for all debts, public charges, taxes, and dues.¹ Despite common misconception, however, this does not mean that a person must accept cash in exchange for goods. Rather, it means that if a person pays their creditor or the government in cash, the debt or other obligation is considered legally settled.

The bill prohibits a person selling or offering for sale goods or services at retail from requiring a buyer to pay via credit or prohibiting payment via cash. It also requires the seller to accept cash when offered as payment. The term "at retail" includes any retail transaction conducted in person and excludes any telephone, mail, or internet-based transaction.²

A violation of the above provisions is an unfair and deceptive act or practice under the Consumer Sales Practices Act (CSPA). The Attorney General has broad authority to enforce the CSPA, including suing for injunctive relief and civil penalties. Additionally, under the bill and under the CSPA, a consumer has a private right of action and can sue the supplier to rescind the transaction or to recover the consumer's actual economic damages plus up to \$5,000 in noneconomic damages. If the supplier's violation is an act or practice that has already been

¹ 31 United States Code 5103.

² R.C. 1333.97(A) and (B).

declared deceptive or unconscionable by the Attorney General or by a court, then the consumer may sue to rescind the transaction or recover three times the amount of the consumer's actual economic damages.³

The bill does not apply to any of the following:

- A person selling goods or services at an airport, if at least two persons selling food in the same terminal accept cash as payment;
- A parking facility owned by a municipal corporation, regardless of whether the facility is operated by the municipal corporation or another entity;
- A parking facility that accepts mobile payment, if the facility does not accept payment by any means other than mobile payment;
- A company in the business of renting motor vehicles, if the company accepts a cashier's check or a certified check when offered by a buyer as payment;
- A sports or entertainment venue with a seating capacity of 10,000 or more irrespective of the event held at the venue.
- A retail establishment that uses a device to convert a customer's cash into a prepaid card under the following conditions:
 - There is no fee for converting cash into the prepaid card or for using the prepaid card;
 - The minimum deposit for the prepaid card is \$5 or less;
 - The customer is given the option of obtaining a receipt indicating the amount deposited onto the prepaid card;
 - The prepaid card is not subject to an expiration date or a limit on the number of transactions for which it may be used.⁴

HISTORY

| Action | Date |
|------------|----------|
| Introduced | 01-31-23 |

ANSB0038IN-135

³ R.C. 1333.97(C) and R.C. 1345.02 and 1345.09, not in the bill.

⁴ R.C. 1333.97(D).