
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1551 Session of
1983

INTRODUCED BY FATTAH, LINTON, MANDERINO, OLIVER, TRELLO, RIEGER,
DALEY, DONATUCCI, PETRARCA, TRUMAN, BELFANTI, WILLIAMS,
KOSINSKI, KASUNIC, EVANS, WIGGINS, RYBAK, KOWALYSHYN,
WAMBACH, FREEMAN, WOZNIAK, O'DONNELL, D. R. WRIGHT, McCALL,
RICHARDSON, DOMBROWSKI, RAPPAPORT, GEORGE, JAROLIN,
LIVENGOD, FEE, DEAL, SALOOM, DeWEESE, TIGUE, BLAUM, HOFFEL,
MORRIS, CAPPABIANCA, BARBER, STEWART, RUDY, McHALE,
AFFLERBACH, HALUSKA, HARPER, LLOYD, BALDWIN, STUBAN, WARGO,
CLARK, BATTISTO, COLE, COWELL, MURPHY, COLAFELLA, ALDERETTE,
CORDISCO, CALTAGIRONE, MICHLOVIC, VAN HORNE, GAMBLE,
MAYERNIK, LESCOVITZ, LUCYK, LETTERMAN, DAWIDA, PRESTON,
MARKOSEK AND COY, OCTOBER 11, 1983

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, OCTOBER 11, 1983

AN ACT

1 Prohibiting persons from refusing to provide property or
2 services to individuals who do not possess credit cards;
3 providing for enforcement of the act; providing remedies; and
4 imposing civil penalties.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Cash Consumer
9 Protection Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Credit card." A writing or number or other evidence of an

1 undertaking to pay for property or services delivered or
2 rendered to or upon the order of a designated person or bearer.

3 "Person." An individual, corporation, trust, partnership,
4 limited partnership, incorporated or unincorporated association
5 or other entity.

6 Section 3. Refusal to provide property prohibited.

7 It shall be unlawful for any person to refuse to provide
8 property or services to any individual for the reason that the
9 individual does not possess a credit card.

10 Section 4. Reasonable security authorized; excessive security
11 prohibited.

12 (a) Demand for security.--A person may, prior to providing
13 property or services to an individual who does not possess a
14 credit card, demand and receive reasonable security from the
15 individual to secure payment for the property or services
16 requested. Reasonable security may take the form of a payment in
17 cash on account reasonably related to the value of the property
18 or services to be provided or any other appropriate assurance.

19 (b) Excessive security prohibited.--Demanding or receiving
20 an unreasonable or excessive amount of security is unlawful.

21 Section 5. Injunctive relief.

22 Whenever the Attorney General or a district attorney has
23 reason to believe that any person is violating or is about to
24 violate section 3 or 4 and that proceedings would be in the
25 public interest, the Attorney General or a district attorney may
26 bring an action in the name of the Commonwealth against the
27 person to restrain by temporary or permanent injunction
28 violations of section 3 or 4.

29 Section 6. Payment of costs and restitution.

30 Whenever any court issues a permanent injunction to restrain

1 and prevent violations of this act as authorized in section 5,
2 the court may in its discretion direct that the defendant or
3 defendants restore to any individual in interest any moneys or
4 property which may have been acquired by means of any violation
5 of this act, under terms and conditions to be established by the
6 court.

7 Section 7. Assurances of voluntary compliance.

8 In the administration of this act, the Attorney General may
9 accept an assurance of voluntary compliance with respect to any
10 method, act or practice deemed to be violative of the act from
11 any person who has engaged or was about to engage in the method,
12 act or practice. The assurance may include a stipulation for
13 voluntary payment by the alleged violator providing for the
14 restitution by the alleged violator to individuals of money or
15 other things received from them in connection with a violation
16 of this act. Any assurance shall be in writing and be filed with
17 the court. The assurance of voluntary compliance shall not be
18 considered an admission of violation for any purpose. Matters
19 thus closed may at any time be reopened by the Attorney General
20 for further proceedings in the public interest, pursuant to
21 section 5.

22 Section 8. Civil penalties.

23 (a) Violation of injunction.--Any person who violates the
24 terms of an injunction issued under section 5 or any of the
25 terms of an assurance of voluntary compliance duly filed in
26 court under section 7 shall forfeit and pay to the Commonwealth
27 a civil penalty of not more than \$5,000 for each violation. For
28 the purposes of this section, the court issuing an injunction or
29 in which an assurance of voluntary compliance is filed shall
30 retain jurisdiction and the cause shall be continued and, in

1 such cases, the Attorney General or the appropriate district
2 attorney, acting in the name of the Commonwealth may petition
3 for recovery of civil penalties and any other equitable relief
4 deemed needed or proper.

5 (b) Willful violations of act.--In any action brought under
6 section 5, if the court finds that a person is willfully using
7 or has willfully used a method, act or practice declared
8 unlawful by section 3 or 4, the Attorney General or the
9 appropriate district attorney, acting in the name of the
10 Commonwealth, may recover, on behalf of the Commonwealth, a
11 civil penalty not exceeding \$1,000 per violation, which civil
12 penalty shall be in addition to other relief which may be
13 granted under sections 5 and 6.

14 Section 9. Private actions.

15 (a) Amount of damages.--Any person who suffers any
16 ascertainable loss of money or property, as a result of the use
17 or employment by any person of a method, act or practice
18 declared unlawful by section 3 or 4 may bring a private action
19 to recover actual damages or \$100, whichever is greater. The
20 court may, in its discretion, award up to three times the actual
21 damages sustained, but not less than \$100, and may provide
22 additional relief as it deems necessary or proper. The court
23 shall award reasonable attorney's fees to a person who prevails
24 in an action brought pursuant to this subsection.

25 (b) Injunction prima facie evidence of violation.--Any
26 permanent injunction, judgment or order of the court made under
27 section 5 shall be prima facie evidence in an action brought
28 under subsection (a) that the defendant used or employed acts or
29 practices declared unlawful by section 3 or 4.

30 Section 10. Effective date.

1 This act shall take effect in 60 days.