



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

HB 385

Consumer Protection – Automatic Tip Prompt Screen – Requirements

SUPPORT

Good afternoon, Mr. Chairman, Mr. Vice Chair and esteemed Economic Matters Committee members.

For the record I'm Delegate Mary Lehman and I am asking for your favorable consideration of HB 385, automatic tip prompt screen. This legislation was passed by the Committee last year and was amended to move it from the Labor article to the Consumer Protection article while still preserving the ability of workers who believe they have not been receiving tips entered through prompt screens to file a complaint with the Department of Labor.

The bill passed the full House but was not voted on in the Senate Finance Committee.

BACKGROUND/WHAT THE BILL DOES

As every consumer knows, more and more eateries and other service-related businesses are asking customers when they are paying their bill if they would like to add a tip. Prior to COVID, tips for food and beverage services were most often associated with sit-down restaurants and were voluntarily added to a bill by the customer, for prompt service and satisfaction. Now, coffee and sandwich shops, ice cream stores, bakeries, convenience stores, and countless other venues ask customers whether they want to add a tip for take-out food and beverages.

Technology has played an important role in facilitating tipping requests at the end of these transactions. The most common scenario occurs when the cashier presents to the customer a tablet or other device for the customer to pay for a purchase and then the option to tip pops up on the screen. These screens do not specify to whom the tip is going and sometimes the screen sets a default tip amount that will be added unless the customer takes an action to decline. In the 2024 session, there were questions in both ECM and

Senate FINANCE about the definition of the word “tip” and whether it is assumed to go to hourly workers or it *must* by law go to hourly workers. It turns out there is a federal definition of “tip” and according to the MD Department of Labor, it is understood that this is also the standard in Maryland that tips may only go to workers, not management or owners. However, there is strong anecdotal evidence that online tips are not always added to workers’ pay. Therefore, for consumer right-to-know and for the protection of workers the bill requires that a tip prompt screen must say some version of: Would you like to tip the staff? Or: Would you like to tip the employees?

HB 385 is an attempt to require transparency and inform consumers about whom they are tipping and ensure that the customer understands that they have a choice as to whether to tip and how much to tip. It would still be left to the retailer what tip levels to recommend on the screen (10%, 20%, 25%, other, etc.). Last year this committee amended the bill to say the default tip screen should be set at zero. This may not be necessary if the tip question is posed as a two-part yes/no question: Do you want to tip the staff? And if a customer chooses yes, then the range of tip options would appear.

OTHER AMENDMENTS

I have been working with the Maryland Restaurant Association during the interim; we have had constructive discussions about amendments, and I am supportive of two. Another involving maximum financial penalties for failure to disclose are an issue for the Attorney General’s office that I have been informed cannot be changed.

Changes I can support:

- Amending the bill to specify that the tip screen change to indicate who is being tipped does not apply to table service, only cash register point of sale transactions (for take-out food either ordered on site or online but picked up in person).
- A written warning, if possible, for a first offense – though again, this would be up to the Attorney General’s office.

Thank you for your consideration of this pro-consumer, pro-worker legislation. I request a favorable report.

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