



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

HB 385

Consumer Protection – Automatic Tip Prompt Screen – Requirements

SUPPORT WITH AMENDMENTS

Good afternoon Chair Beidle, Vice Chair Hayes and Esteemed Members of the Finance Committee,

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 Economic Matters Committee (ECM) and the full House both this year and last. It was amended by ECM this year to disclose that the tip is for employees, add a "no-tip" option and require the Department of Labor and the Division of Consumer Protection of the Office of the Attorney General to describe these new requirements on the agencies' websites.

The 2024 bill was heard but 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 ask customers when they are paying their bill for take-out food and beverages if they would like to add a tip. Prior to COVID, tips for food and beverage services were associated with sit-down restaurants and were voluntarily added to a bill by the customer for prompt service and satisfaction. Now, coffee shops, delis, ice cream stores, bakeries, and countless other venues ask customers whether they want to add a tip for take-out food and beverages.

The most common scenario for point-of-sale tipping 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 the customer must take action to decline.

In the 2024 session, there were questions in both the Economic Matters and Finance Committees 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 that in Maryland 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?

This legislation includes last year's amendment by the ECM that preserves 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.

HB 385 ensures transparency for consumers about whom they are tipping and that they have a choice as to whether to tip and how much. It would still be left to the retailer what tip levels to recommend on the screen (10%, 20%, 25%, other, etc.).

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.

Changes that I supported:

- Amending the bill to specify that the tip screen change does not apply to table service, or 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.

Another amendment, involving maximum financial penalties for failure to disclose, is an issue for the Attorney General's Office that I have been informed cannot be changed. The Economic Matters Committee did amend the penalty section and Attorney General's office will speak to why it opposes the change.

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

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