

House Bill 385

Consumer Protection - Automatic Tip Prompt Screen - Requirements

March 19, 2025

Position: **Oppose unless amended**

Madame Chair and Members of the Senate Finance Committee:

The Restaurant Association of Maryland has been working with the bill sponsor on amendments to address our concerns. And we sincerely appreciate that the sponsor accepted many of our amendments in the House. However, we remain opposed to House Bill 385 unless our concern about the potential penalties is also addressed.

We worked with the sponsor on amendment language to address our concerns regarding the compliance challenges of including the required disclosure on point-of-sale (POS) system equipment with small display screens. We also worked on the appropriate language for such a disclosure and tip options, and to narrow the scope to exclude payment transactions by customers seated at a table or bar.

We also support the House amendment that exempts these violations from §§13-408 and 13-411 of the enforcement and penalty provisions contained in Title 13. Section 13-408 would have allowed a private right of action, which would not be appropriate for these types of violations.

We still have significant concern about the potential penalties for violations. Under the bill, penalties could be up to \$10,000 for a first offense and up to \$25,000 for subsequent offenses under §13-410 of Title 13. These are stiff penalties for a mere disclosure violation. A business's failure to provide the required disclosure as specified in the bill would be "*an unfair, abusive, or deceptive trade practice within the meaning of Title 13.*" And the business would be subject to penalties despite distributing all POS tips to employees as customers intended and as labor laws already require.

We respectfully request that the Senate Finance Committee adopt an amendment to require a written notice of violation with 90 days to comply for a first violation (see amendment on page 2). Such a warning with time to comply is reasonable and is more appropriate for such a disclosure violation. Moreover, we have heard that it may be challenging for some POS system providers to make the required software changes, and some merchant businesses may require new hardware. A violation notice with time to comply is warranted for such a requirement that involves technology upgrades.

(more)

Thank you for your consideration of our concerns.

Sincerely,



Melvin R. Thompson
Senior Vice President
Government Affairs and Public Policy

Amendment

On page 3, in line 18, strike “A VIOLATION OF THIS SECTION IS:” and substitute:

“FOR A FIRST VIOLATION OF THIS SECTION, THE DIVISION OF CONSUMER PROTECTION SHALL ISSUE A WRITTEN NOTICE OF VIOLATION TO THE BUSINESS AND ALLOW AT LEAST 90 DAYS FOR THE BUSINESS TO COMPLY.

(G) A FAILURE TO COMPLY UNDER SUBSECTION (F) OF THIS SECTION OR A SUBSEQUENT VIOLATION OF THIS SECTION BY THE SAME BUSINESS IS:”

Important Background Note on Title 13 Penalties

In 2018, Maryland enacted HB 1634 ([CH0731](#)), Financial Consumer Protection Act of 2018. Among other things, this law increased the penalties under Maryland’s Consumer Protection Act from \$1,000 to \$10,000 and to \$25,000 for subsequent violations. That legislation primarily addressed abusive, unfair and deceptive trade practices by the financial services and lending sectors. In explaining the rationale for the increased penalties, former Maryland Attorney General Brian Frosh commented in his testimony during the 2/9/2018 [HB 1634 House Economic Matters Committee hearing](#), that “...a thousand bucks ain’t much of a deterrent.” [referring to financial institutions/large corporations and their lawyers who try to drag out Maryland consumer protection cases]. These higher Title 13 penalties in effect today were not envisioned to apply to violations for merely failing to provide a POS screen disclosure as required by this year’s HB 385.