

No. 1984-132

AN ACT

HB 1551

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

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

Section 1. Short title.

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

Section 2. Definitions.

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

“Credit card.” A device or instrument which entitles the holder to obtain money, goods, services or anything of value on credit.

“Person.” An individual, corporation, trust, partnership, limited partnership, incorporated or unincorporated association or other entity.

Section 3. Refusal to provide property prohibited.

It shall be unlawful for any person to refuse to rent or sell property or services to any individual for the reason that the individual does not possess a credit card. Nothing in this section requires the acceptance of any particular form of payment.

Section 4. Reasonable security authorized; excessive security prohibited.

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

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

Section 5. Injunctive relief.

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

Section 6. Payment of costs and restitution.

Whenever any court issues a permanent injunction to restrain and prevent violations of this act as authorized in section 5, the court may in its discre-

tion direct that the defendant or defendants restore to any individual in interest any moneys or property which may have been acquired by means of any violation of this act, under terms and conditions to be established by the court.

Section 7. Assurances of voluntary compliance.

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

Section 8. Civil penalties.

(a) Violation of injunction.—Any person who violates the terms of an injunction issued under section 5 or any of the terms of an assurance of voluntary compliance duly filed in court under section 7 shall forfeit and pay to the Commonwealth a civil penalty of not more than \$1,000 for each violation. For the purposes of this section, the court issuing an injunction or in which an assurance of voluntary compliance is filed shall retain jurisdiction and the cause shall be continued and, in such cases, the Attorney General or the appropriate district attorney, acting in the name of the Commonwealth may petition for recovery of civil penalties and any other equitable relief deemed needed or proper.

(b) Willful violations of act.—In any action brought under section 5, if the court finds that a person is willfully using or has willfully used a method, act or practice declared unlawful by section 3 or 4, the Attorney General or the appropriate district attorney, acting in the name of the Commonwealth, may recover, on behalf of the Commonwealth, a civil penalty not exceeding \$200 per violation, which civil penalty shall be in addition to other relief which may be granted under sections 5 and 6.

Section 9. Private actions.

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

(b) Injunction prima facie evidence of violation.—Any permanent injunction, judgment or order of the court made under section 5 shall be prima facie evidence in an action brought under subsection (a) that the

defendant used or employed acts or practices declared unlawful by section 3 or 4.

Section 10. Effective date.

This act shall take effect in 60 days.

APPROVED—The 6th day of July, A. D. 1984.

DICK THORNBURGH