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May 16, 2022

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
U.S. House of Representatives
4340 O'Neill House Office Building
Washington, D.C. 20515

Dear Chairwoman Waters and Ranking Member McHenry:

On behalf of NFIB, the nation's leading small business advocacy organization, I write in opposition to H.R. 4395, the *Payment Choice Act of 2021*. This legislation would restrict the freedom of small retailers and could lead to small business owners being targeted with frivolous lawsuits.

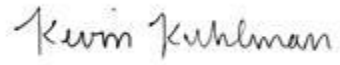
H.R. 4395 would require retail businesses with a physical location, conducting retail sales on-site, to accept cash for as a form of payment for purchases under \$2,000, with penalties of up to \$5,000 for businesses that refuse to comply in addition to the payment of actual damages and attorneys' fees by the losing party. While NFIB recognizes that most retailers accept cash as a form of payment, we remain concerned for retailers that may have a legitimate reason not to accept cash. For example, this bill contains no accommodations for businesses that may refuse cash for health and safety reasons. Small businesses that have been the victims of armed robbery may also want the option to refuse cash to protect their employees.

NFIB opposes the penalties within this legislation. First-time offenses can be fined as much as \$2,500 with subsequent offenses as high as \$5,000 in addition to actual damages and attorneys' fees by the losing party. A \$2,500 fine in addition to attorneys' fees and actual damages for refusal to accept cash is excessively punitive and can significantly challenge small business owners. Small businesses can also be sued for emotional distress as an actual damage in addition to paying the attorneys' fees and penalties.

NFIB is concerned that including attorneys' fees and actual damages would encourage trial attorneys to seek out potential litigants and target small businesses. Like the ongoing abuses of the Americans With Disabilities Act, attorneys may decide to target small businesses with lawsuits knowing that small business owners would prefer settling over incurring expensive legal costs.

Small businesses are suffering from rising inflation, workforce shortages, and supply chain disruptions. Increasing legal liability and imposing costly penalties could exacerbate these small business challenges and damage the fragile Main Street recovery.

Sincerely,

A handwritten signature in black ink that reads "Kevin Kuhlman". The signature is written in a cursive, slightly slanted style.

Kevin Kuhlman
Vice President, Federal Government Relations
NFIB