

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

DRAFT

TO: All Councilmembers

FROM: Chairman Phil Mendelson
Committee of the Whole

DATE: December 1, 2020

SUBJECT: Report on Bill 23-122, “Cashless Retailers Prohibition Act of 2020”

The Committee of the Whole, to which Bill 23-122, the “Cashless Retailers Prohibition Act of 2020”¹ was referred, reports favorably thereon with amendments, and recommends approval by the Council.

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I. BACKGROUND AND NEED

On February 5, 2019, Bill 23-122, the “Cashless Retailers Prohibition Act of 2019” was introduced by Councilmembers David Grosso, Brianne Nadeau, Vincent Gray, Anita Bonds, Trayon White, and Chairman Phil Mendelson, with Councilmember Mary Cheh as a co-sponsor. Bill 23-122 would amend Title 28 of the D.C. Code to prohibit retail establishments from discriminating against cash as a form of payment.

The Rise of Cards, E-Commerce, and Cashless Businesses

Over the past several decades, advances in computer and mobile technology have facilitated the creation of non-cash payment methods such as credit and debit cards, e-commerce, and virtual currency. Due to their efficiency and ease of use, the growth of non-cash payment methods has increased dramatically over time: From 1971 to 2016, the percentage of households

¹ Formerly titled the “Cashless Retailers Prohibition Act of 2019.”

with credit cards grew from 16% to over 70%.² Similarly, from 2000 to 2016, the percent of people who have shopped online increased from 22% to 79%.³ As a result of the widespread adoption of debit and credit cards and the rise of e-commerce, cash transactions now account for less than 25% of all consumer transactions.⁴ These trends, coupled with the “frictionless spending” that non-cash payment methods promote, provide incentives for businesses to go cashless. In D.C., the cashless business model has become increasingly popular among restaurants and other foodservice establishments over the last several years.⁵

Cashless Transactions and Crime

Beyond the market forces that have driven the adoption of cards and e-commerce, businesses may choose to go cashless because of a perceived safety with e-commerce. While several studies suggest that cashless transactions deter robberies,⁶ and potentially reduce opportunities for employee theft, or “shrinkage,”⁷ the growth of cashless transactions may have shifted crime to different platforms where it is harder to track but still incredibly damaging. Due to the proliferation of computers and mobile technology used for commercial transactions, the personal information of millions of consumers is vulnerable to exposure through cyber-attacks against businesses. The scope of cybercrimes against firms is not well documented, but several reports and surveys suggest that it is widespread. A 2005 study of cybercrime against businesses conducted by the Bureau of Justice Statistics (BJS) found that 67% of retail companies experienced at least one cybercrime in 2005.⁸ Of those businesses, 12% experienced cyber theft, which includes fraud, theft of intellectual property, and theft of personal or financial data of consumers.⁹ While the BJS survey found that larger businesses were targeted more often, small and medium-sized companies are frequently victimized as well. For instance, a 2018 study of small and medium-sized companies by the Ponemon Institute found that 67% of businesses experienced a cyber-attack in the past year, and 58% experienced a data breach.¹⁰ These cyber-attacks can lead to consumer records being leaked or compromised: A study of 12,000 cybercrime incidents found that, on

² Committee analysis of Survey of Consumer Finances data (Federal Reserve Board, 1970-2016).

³ Smith, A. & Anderson, M. (2016). *Online Shopping and E-Commerce*. Pew Research Center (file:///C:/Users/bstum/Downloads/PI_2016.12.19_Online-Shopping_FINAL.pdf).

⁴ 2018 Survey of Consumer Payment Choice, Federal Reserve Bank of Atlanta (<https://www.frbatlanta.org/banking-and-payments/consumer-payments/survey-of-consumer-payment-choice/2018-survey.aspx>).

⁵ Fenit Nirappil, “As restaurants go cashless, a backlash is building. Will D.C. intervene?” *The Washington Post*, July 9, 2018 (https://www.washingtonpost.com/local/dc-politics/as-restaurants-go-cashless-a-backlash-is-building-will-dc-intervene/2018/07/07/89f3f1d8-8098-11e8-b0ef-fffcabeff946_story.html).

⁶ See, for instance, Armev, L. E., Lipow, J., & Webb, N. J. (2014). The impact of electronic financial payments on crime. *Information Economics and Policy*, 29, 46-57; Wright, R., Tekin, E., Topalli, V., McClellan, C., Dickinson, T., & Rosenfeld, R. (2017). Less cash, less crime: Evidence from the electronic benefit transfer program. *The Journal of Law and Economics*, 60(2), 361-383; Pridemore, W. A., Roche, S. P., & Rogers, M. L. (2018). Cashlessness and street crime: A cross-national study of direct deposit payment and robbery rates. *Justice Quarterly*, 35(5), 919-939.

⁷ Erlanger, S. (2019). A Cashless Economy: How to Protect the Low-Income. *Cardozo L. Rev. De-Novo*, 166.

⁸ Rantala, R. R. (2008). *Cybercrime against businesses, 2005*. US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

⁹ *Ibid.*

¹⁰ Ponemon Institute LLC. (November 2018). *2018 State of Cybersecurity in Small and Medium Size Businesses*. Sponsored by Keeper Security Inc (<https://www.keepersecurity.com/assets/pdf/Keeper-2018-Ponemon-Report.pdf>).

average, 2.3 million records were compromised in a single incident. These records often included names, credit card information, addresses, and email credentials.¹¹

The cost of these incidents is significant to businesses and consumers alike. The 2005 BJS survey estimated the total business cost of cyber theft incidents at \$450 million.¹² More recent data suggests the costs have only grown since then. The Federal Bureau of Investigation's (FBI) Internet Crime Complaint Center estimated that business email compromise schemes *alone* cost victims over \$1.7 billion in 2019.¹³ For consumers who experience identity theft as a result of compromised records, average direct losses can range from \$680 to over \$3,000, according to a BJS survey on victims of identity theft.¹⁴ BJS estimates that losses incurred as a result of identity theft totaled \$17.5 billion in 2016.¹⁵ By contrast, the FBI estimates that property crimes such as burglary and theft cost \$15.6 billion in 2016.¹⁶

Cashless Businesses and Equity

Data from the 2017 Current Population Survey (CPS) Unbanked/Underbanked Supplement suggests that 8% of households in the District are unbanked, and 21.2% of households are underbanked, meaning that they have a checking or banking account but frequently rely on alternative financial services such as money orders and loans. An analysis of pooled CPS supplement data suggests that banking status varies widely by householder demographics (Table 1 on the next page).¹⁷ The analysis finds that less than one percent of white households are unbanked, in contrast to 21% of Black households. Another 36% of Black households are underbanked. Low-income and less educated households are also more likely to be unbanked or underbanked. When asked why they do not have a bank account, 55% of unbanked households reported that they did not have enough money to open an account.¹⁸

These statistics can be attributed to the structural racism that limits access and denies opportunities for wealth building and financial security to Black citizens. For instance, a recent study by New America and Family-Centered Social Policy found that:¹⁹

- Banks are far more likely to open and operate branches in white neighborhoods;
- Banks require higher minimum opening deposits in majority-Black neighborhoods than in white neighborhoods;

¹¹ Romanosky, S. (2016). Examining the costs and causes of cyber incidents. *Journal of Cybersecurity*, 2(2), 121-135.

¹² *Id.*, supra note 3.

¹³ Federal Bureau of Investigation, Internet Crime Complaint Center. 2019 Internet Crime Report (https://pdf.ic3.gov/2019_IC3Report.pdf).

¹⁴ Harrell, E. (2019). *Victims of identity theft, 2016*. US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

¹⁵ *Ibid.* pg. 1.

¹⁶ Federal Bureau of Investigation, Crime in the United States, 2016. Tables 1 and 15.

¹⁷ Weights for pooled data were calculated by multiplying the original sample weight (sw) by the number of observations by year (oy) divided by the total number of observations (t), or $sw \times \frac{oy}{t}$ expressed as an equation.

¹⁸ This includes respondents who report that they do not have enough money to need a bank account and respondents who report that fees and minimum balance requirements are too high.

¹⁹ Faber, J. & Friedline, T. *The Racialized Costs of Banking*. New America and Family-Centered Social Policy, June 2018.

- Banks in majority-white census tracts require a minimum balance of \$625 to avoid fees or closure, while banks in majority-Black tracts require \$870; and
- Overdraft fees are lower in majority-white areas.

Thus, while cashless businesses may benefit some businesses, they disproportionately exclude Black and low-income citizens who do not have access to banking accounts or credit cards.

Table 1. Banking Status by Householder Characteristics²⁰

	Percent of Households		
	Fully Banked	Underbanked	Unbanked
White	88.1%	11.2%	0.7%
Black	42.8%	36.1%	21.1%
Other	64.1%	29.2%	6.7%
High school or less	42.2%	33.7%	24.1%
Some college	51.3%	36.8%	11.9%
College degree	81.8%	17.3%	0.9%
Less than \$30,000	32.4%	29.2%	38.4%
\$30,000-\$59,999	55.5%	39.6%	4.9%
\$60,000 or more	80.7%	18.3%	1%
No disability	67.9%	24.6%	7.5%
Disabled	54.1%	23.9%	22%

Note: Rows add up to 100%.

Exemptions

Every jurisdiction that has recently passed a cashless retail prohibition law has included exemptions for certain types of transactions or businesses (Table 2 on the next page). Most jurisdictions, such as New Jersey, Philadelphia, Rhode Island, and New York City, include explicit exemptions for internet, mail, or phone-based sales. This protects businesses that do not have brick-and-mortar locations or only use applications, platforms, etc., for payments, such as Lyft, DoorDash, and other strictly mobile or internet-based platforms. Given this, the Committee Print includes an exemption for retail purchases made via mail, phone, or internet.

At the Committee’s public hearing on Bill 23-122, several witnesses requested that the Council consider adding other exemptions. First, a representative with the Washington Parking Association testified that the Council should consider exempting parking facilities. Second, a representative with the National Automatic Merchandising Association (NAMA) urged the Council to consider exempting goods sold directly to employees in employee break rooms via “micro-markets.”²¹ New Jersey and Philadelphia’s laws include explicit exemptions for parking

²⁰ Sarah Flood, Miriam King, Renae Rodgers, Steven Ruggles and J. Robert Warren. Integrated Public Use Microdata Series, Current Population Survey: Version 7.0 [dataset]. Minneapolis, MN: IPUMS, 2019.

²¹ Unattended retail environments where consumers can buy snacks and beverages via self-checkout kiosks

facilities. The Committee analyzed accepted payment methods for 210 of the District’s 436 licensed parking facilities.²² Of these 210 facilities, 77% (162 facilities) accept cash as a form of payment. This suggests that this bill would not impact most parking facilities. For the minority of parking facilities that do not accept cash, however, the cost to retrofit could be significant: Parking facility kiosks can cost anywhere from \$20,000 to \$60,000 a unit depending on the technology and configuration of the facility.²³ Given these facts, the Committee Print includes language that would exempt parking facilities that do not accept cash as of the effective date of the bill.

Table 2. Cashless Retail Prohibition Exemptions by Jurisdiction

Jurisdiction	Exemptions
Massachusetts ²⁴	None
New Jersey ²⁵	Telephone, mail, or internet-based transactions; any person selling goods or services at an airport; any parking facility owned by a municipality; any parking facility that accepts mobile payments; and any company renting motor vehicles.
Philadelphia, PA ²⁶	Telephone, mail, or internet-based transactions; parking lots and parking garages; transactions at wholesale clubs that sell goods and services via membership model; sales for rental products or services for which posting of collateral or security is required; and consumer goods or services provided exclusively to employees.
Rhode Island ²⁷	Online purchases or sales that are made over the internet.
San Francisco, CA ²⁸	Businesses not operating at a physical location; companies operating from a vehicle or other mobile space; and businesses operating from a temporary physical premise.
New York City, NY ²⁹	Telephone, mail, or internet-based transactions; and food or retail establishments that provide a device on premises that convert cash into a prepaid card without charging a fee or requiring a minimum deposit amount of greater than one dollar.

Philadelphia is the only jurisdiction that exempts the sale of consumer goods or services directly to employees. A vast majority of micro-market locations are in offices and manufacturing facilities, where employees purchase products.³⁰ While a significant percentage of micro-market

²² Number of licensed parking facilities as of February 28, 2019 via DC Open Data Basic Business License dataset.

²³ Quotes from Flash Parking, ParkingBoxx, Ventek and HubParking.

²⁴ General Laws of Massachusetts § 255D.10A.

²⁵ New Jersey Statute § 56:8-2.33(c)(1)-(4).

²⁶ The Philadelphia Code § 9-1132(2)(a)-(f).

²⁷ General Laws of Rhode Island § 6-13.1-30.

²⁸ San Francisco Police Code § 5502.

²⁹ New York City Administrative Code § 20-840(b)(2) and § 20-840(e)(1).

³⁰ Automatic Merchandiser, State of the Industry Report – June/July 2019

transactions are cashless, most micro-market kiosks and providers, such as the Gen3c Kiosk, Micro Market Max 2.0, V.E. Kiosk 2.0, Breakroom Provisions, and Three Square Market, include cash as a payment option. Additionally, micro-market stored value accounts allow employees to purchase and add value to market card accounts, which account for nearly 70% of all micro-market purchases.³¹ With this in mind, the Committee finds that an exemption for the sale of consumer goods or services directly to employees is not necessary.

Other exemptions were analyzed but not included in the Committee Print. For instance, Philadelphia exempts businesses that require the posting of collateral or security, which includes companies such as hotels. Most major hotel chains that require security deposits, such as Days Inn, Quality Inn, Marriott, and Holiday Inn, allow customers to use cash for the deposit and accept cash as a form of payment at checkout.³² Many car rental companies such as Dollar, Hertz, and Thrifty accept cash for security deposits as well.³³ Additionally, bookings that take place via the internet or phone, which are a majority of all bookings for hotels and car rentals, would not be subject to the cashless retail prohibition.³⁴ As such, the Committee does not see a justifiable reason to include more exemptions.

Applicability During a Public Health Emergency

On March 11, 2020, the World Health Organization declared the emergence and spread of the coronavirus disease 2019, or COVID-19, a pandemic.³⁵ That same day, Mayor declared a public health emergency due to the growing threat of COVID-19 to the District.³⁶ In the days that followed, the number of positive cases of COVID-19 in the District and the Country as a whole grew exponentially, leading to the issuance of stay-at-home orders and other measures to slow the spread of the virus. Since then, there have been over 18,000 positive cases and 657 deaths in the District, and over 10 million cases and 233,000 deaths in the United States.³⁷

While it is widely believed that COVID-19 is primarily transmitted through aerosols or droplets projected by individuals infected with the virus, studies have found that the virus remains viable on a myriad surfaces hours after it leaves an infected person's body.³⁸ One study found that

(http://cdn.vendingmarketwatch.com/files/base/cygnus/vmw/document/2019/06/SOI_AM0619.5d0beec31751c.pdf).

³¹ Emily Reformat, "Do micro markets increase sales," Vending Market Watch, May 23, 2013

(<https://www.vendingmarketwatch.com/micro-market/article/10948709/do-micro-markets-increase-sales>).

³² Richie Bernardo, "Book a Hotel Without a Credit Card: Hotel Policies and Tips," *Wallethub*, February 2, 2015 (<https://wallethub.com/edu/cc/book-hotel-without-credit-card/25850/>).

³³ See, for instance, Thrifty General Policies and Fee Information ([link](#)), Dollar Car Rental Fees and Policies ([link](#)), and Hertz Rental Qualifications and Requirements ([link](#)).

³⁴ See, for instance, Beresford J. & Rose, N. (January 2016). *Identifying Early Adopters for Emerging Digital Travel Services*. Phocuswright White Paper (<https://www.cognizant.com/InsightsWhitepapers/2016-Travel-Hospitality-Study.pdf>).

³⁵ World Health Organization Director-General's Opening Remarks at the Media Briefing on COVID-19, March 11, 2020.

³⁶ Mayor's Order 2020-045 and Mayor's Order 2020-046.

³⁷ Author analysis of COVID-19 data from D.C. Health and the COVID Tracking Project.

³⁸ See, for instance, N van Doremalen, et al. Aerosol and surface stability of HCoV-19 (SARS-CoV-2) compared to SARS-CoV-1. *The New England Journal of Medicine*, 2020.

the virus can survive on paper and tissue paper for up to three hours, for instance.³⁹ Thus, while researchers have noted that the risk of infection via surface contact is smaller, it is not zero percent. Due in part to these concerns, the Centers for Disease Control and Prevention (CDC) recommends that individuals use touchless payments where possible.⁴⁰

In addition to the concerns about transmission of COVID-19 through surface contact, a large percentage of businesses across the District are currently operating at reduced capacity due to necessary restrictions on group activities, which can make the handling of cash payments a logistical difficulty. Given these facts, the Committee Print contains language that would allow businesses to refuse cash during a public health emergency declared by the Mayor. This will give businesses the flexibility to determine the acceptance of cash payments based on health conditions in the District and the operational status of their business without fear of facing penalties.

Conclusion

The Committee finds that the refusal of brick and mortar retail establishments to accept cash as a form of payment comes with risks to consumers and businesses and excludes Black and low-income residents from being able to purchase goods or services. The Committee further finds that limited exemptions are necessary due to existing infrastructure or public health concerns. Given this, the Committee recommends approval of Bill 23-122 as amended by the Committee Print.

II. LEGISLATIVE CHRONOLOGY

- | | |
|-------------------|---|
| February 5, 2019 | Bill 23-122, the “Cashless Retailers Prohibition Act of 2019” is introduced by Councilmembers David Grosso, Brianne Nadeau, Vincent Gray, Anita Bonds, Trayon White, and Chairman Phil Mendelson, with Councilmember Mary Cheh as a co-sponsor. |
| February 5, 2019 | Bill 23-122 is “read” at a legislative meeting; on this date the referral of the bill to the Committee of the Whole is official. |
| February 15, 2019 | Notice of Intent to Act on Bill 23-122 is published in the <i>District of Columbia Register</i> . |
| December 27, 2019 | Notice of a Public Hearing on Bill 23-122 is published in the <i>District of Columbia Register</i> . |
| February 13, 2020 | The Committee of the Whole holds a public hearing on Bill 23-122. |
| March 17, 2020 | The Committee of the Whole marks-up Bill 23-122. |

³⁹ Chin A W H, Chu J T S, Perera M R A, et al. Stability of SARS-CoV-2 in different environmental conditions. *Lancet Microbe*, 2020.

⁴⁰ CDC, Coronavirus Disease 2019 (COVID-19), Running Essential Errands, September 11, 2020 (<https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/essential-goods-services.html>).

III. POSITION OF THE EXECUTIVE

Ernest Chrappah, Director of the Department of Consumer and Regulatory Affairs, testified at the Committee's public hearing on February 13, 2020. Mr. Chrappah stated that the Executive supports the intent of the bill but recommended that the Committee limit the scope of the bill to "brick and mortar" establishments and consider exemptions for automated parking garages and rental car businesses.

IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

The Committee did not receive comments from any Advisory Neighborhood Commissions (ANC) regarding this bill.

V. SUMMARY OF TESTIMONY

The Committee of the Whole held a public hearing on Bill 23-122 on Thursday, February 13, 2020. The testimony summarized below is from that hearing. Copies of written testimony are attached to this report.

David Julyan, a representative of the Washington Parking Association, asked the Committee to consider an exemption for parking facilities.

Joseph Leitmann-Santa Cruz, Executive Director of Capital Area Asset Builders, testified in support of the bill.

Crystal Wright, External Affairs with Cardtronics, testified in support of the bill and said the Committee should not consider including exemptions similar to those in Philadelphia or New Jersey.

Erika Wadlington, Director of Public Policy and Programs with D.C. Chamber of Commerce, testified in opposition to the bill.

Wes Fisher, Manager of Government Affairs with the National Automatic Merchandising Association, requested that the Committee consider a narrow amendment that would exempt employee breakrooms.

Tazra Mitchell, Policy Director with the D.C. Fiscal Policy Institute, testified in support of the bill.

Zachary Hoffman, public witness, testified in support of the bill.

Meryl Chertoff, Executive Director of the Georgetown Project on State & Local Government Policy and Law, testified in support of the bill. Mrs. Chertoff noted that cashless transactions raise privacy concerns.

Ernest Chrappah, Director of the Department of Consumer and Regulatory Affairs, testified on behalf of the Executive in support of the bill with recommendations that the Committee considers exemptions. His testimony is summarized in Section III.

The Committee received the following testimony in writing:

Marian Messing, Sidley Austin Appellate Advocacy Fellow with the Legal Aid Society of D.C., provided comments in support of the bill.

Brittany K. Ruffin and Morrison Neville, Washington Legal Clinic for the Homeless, provided comments in support of the bill.

Shireen Rose Shakouri, public witness, provided comments in support of the bill.

Charnay Jones, a law student at Georgetown University Law Center, provided comments in support of the bill.

VI. IMPACT ON EXISTING LAW

Bill 23-122 adds a new chapter to Title 28 of the District of Columbia Official Code that prohibits retailers from discriminating against cash as a form of payment for services and establishes civil penalties for any violation of this chapter. The provisions of the chapter do not apply to retail sales made via mail, phone, or internet, or to parking facilities that do not accept cash as of the effective date of the act.

VII. FISCAL IMPACT

VIII. SECTION-BY-SECTION ANALYSIS

<u>Section 1</u>	Short title.
<u>Section 2</u>	Adds a new chapter to Title 28 of the District of Columbia Official Code that prohibits retailers from discriminating against cash as a form of payment for services and establishes civil penalties for any violation of this chapter.
<u>Section 3</u>	Applicability.
<u>Section 4</u>	Fiscal impact statement.
<u>Section 5</u>	Effective date.

IX. COMMITTEE ACTION

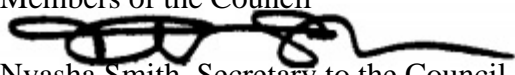
X. ATTACHMENTS

1. Bill 23-122 as introduced.
2. Written Testimony.
3. Fiscal Impact Statement for Bill 23-122.
4. Legal Sufficiency Determination for Bill 23-122.
5. Comparative Print for Bill 23-122
6. Committee Print for Bill 23-122.

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council

From : 
Nyasha Smith, Secretary to the Council

Date : February 06, 2019

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Committee of the Whole on Tuesday, February 5, 2019. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Cashless Retailers Prohibition Act of 2019", B23-0122

INTRODUCED BY: Councilmembers Grosso, Nadeau, Gray, Bonds, T. White, and Chairman Mendelson

CO-SPONSORED BY: Councilmember Cheh

The Chairman is referring this legislation to the Committee of the Whole.

Attachment

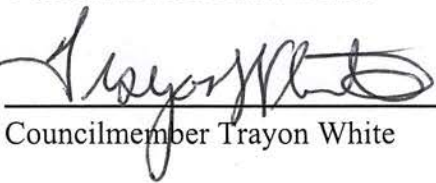
cc: General Counsel
Budget Director
Legislative Services

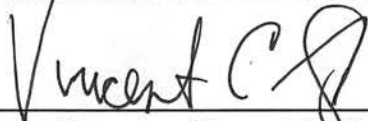
1 
2 Chairman Phil Mendelson


Councilmember David Grosso

3
4 
5 Councilmember Anita Bonds


Councilmember Brianne K. Nadeau

6
7 
8 Councilmember Trayon White


Councilmember Vincent C. Gray

11
12
13 A BILL

14 _____
15 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
16 _____

17 To amend Title 28 of the District of Columbia Official Code to prohibit retail establishments
18 from discriminating against cash as a form of payment, and to provide for enforcement of
19 this requirement.

20
21 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
22 act may be cited as the “Cashless Retailers Prohibition Act of 2019”.

23 Sec. 2. Title 28 of the District of Columbia Official Code is amended as follows:

24 (a) The table of contents is amended by adding a new chapter designation to read as
25 follows:

26 “54. Cashless Retail Prohibition.”.

27 (b) Section 28-3904 is amended as follows:

28 (1) Paragraph (hh) is amended by striking the word “or”.

29 (2) Paragraph (ii) is amended by striking the period and inserting the phrase “; or”
30 in its place.

31 (3) A new paragraph (jj) is added to read as follows:

32 “(jj) violate any provision of Chapter 54 of this title.”

33 (c) A new Chapter 54 is added to read as follows:

34 “CHAPTER 54. CASHLESS RETAIL PROHIBITION.

35 “Sec.

36 “28-5401. Definitions.

37 “28-5402. Prohibited practices.

38 “28-5403. Civil penalties.

39 “§28-5401. Definitions.

40 “For the purposes of this chapter, the term “retailer” means a person holding a basic
41 business license who sells products or services in a retail setting in small quantities directly to the
42 ultimate consumer.

43 “§28-5402. Prohibited practices.

44 “A retailer shall not discriminate against cash as a form of payment for services
45 purchased on the licensed premises, including by:

46 “(a) Refusing to accept cash as a form of payment;

47 “(b) Posting signs on the licensed premises that cash payment is not accepted;

48 “(c) Charging different prices to customers depending on their payment method.

49 “§28-5403. Civil penalties.

50 “(a) Failure to comply with the requirements of this chapter shall be an unlawful trade
51 practice under § 28-3904.”

52 Sec. 3. Fiscal impact statement.

53 The Council adopts the fiscal impact statement in the committee report as the fiscal
54 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
55 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

56 Sec. 4. Effective date.

57 This act shall take effect following approval by the Mayor (or in the event of veto by the
58 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
59 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
60 24, 1973 (87 Stat. 813; DC Official Code § 1-206.02(c)(1)), and publication in the District of
61 Columbia Register.

Council of the District of Columbia
Committee of the Whole
B23-122 Cashless Retailers Prohibition Act of 2019
February 13, 2020

Chairman Mendelson and members of the Committee, my name is David Julyan and I am here on behalf of the Washington Parking Association, the WPA, and its members.

The WPA understands and supports the intent of this legislation with its focus on ensuring that District residents without credit cards or smart phone apps are not denied the ability to use cash at those traditional retail transactions. Most examples given are restaurants, food and grocery stores and “brick and mortar” retail shops. Other jurisdictions that have addressed this issue have agreed that credit card only parking facilities fall outside the focus of this policy initiative. Based on the information we’ve received, Philadelphia, New Jersey and New York City have passed “No Cashless” bills, but have exempted parking facilities. Like this body, those jurisdictions were looking at the typical retail transaction where “no cash” policy would impact the customer and realized that a one-size-fits-all policy was not appropriate and specifically that authorizing the parking facility transaction to remain cashless was consistent with the goals and intent of the legislations.

For example. The Philadelphia law has several carve-outs. The cash requirement won’t apply to parking garages or lots; wholesale clubs like Costco that sell to consumers through a membership model; or rental-car companies or hotels where a credit-card deposit is often required for incidentals. New Jersey defines a retail transaction as one “conducted in person” and New York City refers to “brick and mortar.” Chicago considered this issue and, after digging into the nuances, decided not to enact any statute.

The first credit card only parking facility opened in DC in 2012. Today, as many as 1/3 of an operator’s facilities may be credit card only and the trend continues. WPA members have never received a complaint about cashless parking facilities.

There are several reasons to exempt parking facilities from a “No Cashless” policy:

- Expanded use of credit card only facilities has improved the parking experience for their customers: It’s faster, more convenient and helps keep down the cost of parking.
- Safety: “No Cash” means the facility is not a target for theft or robbery and creates a safer environment for employees and customer.
- The focus on “No Cash” retail is not aimed at the specifics of the parking facility transaction and there have been no complaints from parking facility customers as there have in traditional “store front” retail establishments.

- Exempting parking facilities will not create ambiguity or confusion with the bill's implementation in the areas where it should apply; successful precedents include Philadelphia, New Jersey and New York City.
- Imposing this on parking will buck the trend and incur significant costs; many DC parking facilities no longer have attendant booths or personnel at their exits; retrofitting those facilities is a major and expensive project.

The council must find the correct balance between the reality of emerging technological advancements and ensuring that no one is denied their rights to interact with the rest of society, and specifically to experience traditional retail transactions freely and with respect ... including paying with cash. However, this isn't as simple or easy as prohibiting "cashless commerce" across the board. Again, this is not a one size fits all issue. It will take careful study and an understanding of different situations, some where "no cash" is appropriate and some where it is not.

With the exception of Massachusetts, those jurisdictions with "no cashless" statutes are very new, mainly in the last year or two. It is important that the committee reach out to these jurisdictions and get a first-hand understanding of how these policies are working and specifically, if the exemptions.. for parking or food trucks or rental cars or hotels or Costco's, etc. ... are impacting policies and goals. It should always be a goal of the council that the consequences, both intended and unintended, are carefully assessed before putting pen to paper for a bill.

The Washington Parking Association is committed to working with the Council in finding the correct answer for the District. Thank you for your time and consideration,

City of Philadelphia



(Bill No. 180943)

AN ORDINANCE

Amending Chapter 9-1100 of The Philadelphia Code, entitled “Fair Practices Ordinance: Protections Against Unlawful Discrimination,” by adding a new section prohibiting retail establishments from refusing to accept cash as a form of payment, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 9-1100 of The Philadelphia Code is amended to read as follows:

CHAPTER 9-1100. FAIR PRACTICES ORDINANCE: PROTECTIONS AGAINST UNLAWFUL DISCRIMINATION.

* * *

§ 9-1132. Cashless Retail Prohibition.

(1) A person selling or offering for sale consumer goods or services at retail is prohibited from refusing to accept cash as a form of payment to purchase goods or services. A person selling or offering for sale goods or services at retail shall not:

- a. Refuse to accept cash as a form of payment;*
- b. Post signs on the premises that cash payment is not accepted;*
- c. Charge a higher price to customers who pay cash than they would pay using any other form of payment.*

(2) For purposes of this Section 9-1132, “at retail” shall include any retail transaction conducted in person and shall exclude

- a. any telephone, mail, or internet transactions;*
- b. parking lots and parking garages;*
- c. transactions at wholesale clubs that sell consumer goods and services through a membership model;*

City of Philadelphia

BILL NO. 180943 continued

Certified Copy

- d. transactions at retail stores selling consumer goods exclusively through a membership model that requires payment by means of an affiliated mobile device application;*
- e. transactions for the rental of consumers goods, services, or accommodations for which posting of collateral or security is typically required;*
- f. consumer goods or services provided exclusively to employees and others authorized to be on the employer's premises.*

(3) Violations of this Section shall be subject to penalties set forth in Section 9-1121(1).

(4) The Commission is authorized to promulgate and issue such regulations as are necessary or appropriate to implement the provisions of this section.

* * *

SECTION 2. This Ordinance shall take effect July 1, 2019.

Explanation:

Italics indicate new matter added.



**Testimony to Committee of the Whole
Council of the District of Columbia**

**Joseph Leitmann-Santa Cruz, Executive Director
Capital Area Asset Builders (CAAB)**

February 13, 2020

Good morning Chairperson and members of the Committee of the Whole. My first name is Joseph and my last name is Leitmann-Santa Cruz. I am the Executive Director of the Washington, DC-based, non-profit organization, Capital Area Asset Builders (CAAB).

Today I am honored to provide testimony before this Committee in favor of the Cashless Retailers Prohibition Act of 2019. The lack of an ability to pay in cash at retail businesses would have a direct impact on both communities of color and low- and moderate-income residents in DC.

We recognize the validity of some of the arguments being used as to why going cashless is good for the businesses. We doubt that cashless businesses deliberately want to exclude certain consumers; however, by going cashless a business is pretty much saying “If you are low-income and don't have a bank account or credit card, then we don't want your business.”

In order to participate in a cashless economy, a consumer needs to rely on a debit card, linked to a bank account, a credit card, or a payment app, which is linked to either a bank account or a credit card. According to the Federal Deposit Insurance Corporation (FDIC), low-income and communities of color disproportionately constitute households that do not have a bank or credit union account or rely on alternative financial services. When it comes to having a relationship with mainstream financial services, District of Columbia households score among the lowest in the nation. Per the most recent FDIC report, almost one third of DC households are either Unbanked (8%) which are households with neither a checking nor savings account, or Underbanked (21%) which are households that may have a bank account yet still rely on alternative financial services.

Relying on the Unbanked and Underbanked figures, this means that over 81,000 District of Columbia residents would not be able to consume goods and services sold at cashless retailers. This is neither good for the consumer nor for the business establishment.

According to the Consumer Financial Protection Bureau, close to 20% of District of Columbia residents over the age of 18 are Credit Invisible or have a Thin Credit File. This means that 1 out of 5 adults in the District would not have access to credit cards, personal loans, mortgages, etc. because in the eyes of the credit reporting bureaus they do not exist.



Relying on the Credit Invisible and Thin Credit File figures, this means that over 110,000 DC residents would not be able to consume goods and services sold at cashless retailers. This is neither good for the consumer or the business establishment.

CAAB's work is guided by our Vision of a metropolitan region where birthplace, race, and the Zip code we live in don't limit economic opportunity and optimism. We aspire to have our community be inclusive, and this also incorporates the ability of all Washingtonians, regardless of their banking or credit status, to be able to use cash to purchase goods and services at retail businesses.

Please protect all Washingtonian consumers and pass the Cashless Retailers Prohibition Act of 2019.

Given that we are in the middle of the 2020 tax season, CAAB is kindly requesting to work with all of you to raise awareness of the Earned Income Tax Credit (EITC). For the past four decades, the EITC has been considered the most effective poverty alleviation program in the nation. While last year over 49,000 DC residents received \$160 million in EITC payments, CAAB estimates that as many as 20,000 EITC-eligible DC residents are not claiming this valuable credit and leaving over \$40 million on the table every year. Please work with CAAB to inform your constituents on the value of the EITC.

Thank you for the opportunity to provide my testimony and I look forward to answering any questions you may have.



**Cardtronics' Testimony Before the Council of the District of Columbia
Committee of the Whole on B23-122, the Cashless Retailers Prohibition Act of 2019**

February 13, 2020

My name is Crystal Wright. I lead External Affairs and Community Outreach consulting for Cardtronics, the largest ATM operator in the world. Chairman Mendelson and Councilmembers, thank you for the opportunity to share our thoughts on B23-122, the Cashless Retailers Prohibition Act of 2019, and the importance of cash in today's economy.

As the largest ATM operator in the world, Cardtronics connects people to cash in 10 countries, across four continents in North America, Europe, Africa, and Australia. Through our partnerships with financial institutions and retailers, Cardtronics operates 290,000 ATMs globally, including more than 200,000 in the U.S.

Cardtronics is a champion of payment choice and believes that merchants should treat all forms of payment equally, be they digital, card, or cash, for brick-and-mortar purchases.

Yet, businesses large and small have begun refusing to accept cash from consumers: from local sandwich shops,¹ to major retailers² and restaurants,³ sports stadiums,⁴ airlines,⁵ and municipal mass transit systems.⁶ Amid the rise in cashless retail, Cardtronics applauds the District of Columbia for joining the national movement of 15 other cities and states, and the United States Congress in introducing legislation that protects cash as a payment choice.

Local, State, and Federal Legislation

Every U.S. paper denomination of currency includes the words "This note is legal tender for all debts, public and private." Curiously, there is no federal law prohibiting businesses from not accepting cash. A merchant can refuse to accept cash as a form of payment unless a city or state has a law banning the practice.

¹Nirappl, Fenit. *As restaurants go cashless, a backlash is building. Will D.C. intervene.* Washington Post, July 7, 2018.

https://www.washingtonpost.com/local/dc-politics/as-restaurants-go-cashless-a-backlash-is-building-will-dc-intervene/2018/07/07/89f3fd8-8098-11e8-b0ef-fffcabeff946_story.html

²Davidson, Paul. *More retailers go cashless to cut costs, theft as holiday shopping ramps up.* USA Today, November 11, 2018.

<https://www.usatoday.com/story/money/2018/11/28/holiday-shopping-more-retailers-just-saying-no-cash/2063747002/>

³Bindley, Katherine. *Your Cash Is No Good Here. Literally.* Wall Street Journal, December 8, 2018.

<https://www.wsj.com/articles/your-cash-is-no-good-here-literally-11546013696>

⁴Chemi, Eric. *Arthur Blank's next stadium revolution: Going cashless.* CNBC, March 4, 2019.

<https://www.cnbc.com/2019/03/03/arthur-blanks-next-stadium-revolution-going-cashless.html>

⁵ *Cashless sky: Majority of airlines go cash-free*, eTurboNews, January 8, 2020.

<https://www.eturbonews.com/539139/cashless-sky-majority-of-airlines-go-cash-free/>

⁶ Murakami, Kery. *Metro is considering cashless bus routes. Critics worry the change will disproportionately affect the poor.* Washington Post, October 1, 2018.

<https://www.washingtonpost.com/express/2018/10/01/metro-is-considering-cashless-bus-routes-critics-worry-change-will-disproportionately-affect-poor/>

Since 2018, the District of Columbia,⁷ California,⁸ Connecticut,⁹ New Hampshire,¹⁰ New York City,¹¹ New York,¹² Michigan,¹³ Oregon,¹⁴ St. Louis,¹⁵ Vermont,¹⁶ West Hollywood¹⁷, and Wisconsin¹⁸ have introduced bills to prohibit merchants from discriminating against cash-paying customers. In 1978, Massachusetts¹⁹ became the first state in the union to enact a law that prohibits businesses from not accepting cash. In 2019, New Jersey,²⁰ Philadelphia,²¹ Rhode Island,²² and San Francisco²³ enacted similar laws, banning businesses from not accepting cash.

Recognizing the threat of ‘cashless creep’ to our nation, the United States Congress also has introduced the Payment Choice Act (HR 2650), which would impose a federal ban on cashless retail establishments. The bill has received wide bi-partisan support. All levels of government are working assiduously to ensure that consumers have the right to choose cash.

Financial Exclusion

Unlike other forms of payment, cash is an equal opportunity payment option: meaning anyone, regardless of age, race, or income can access cash. Conversely, cashless retail acceptance policies are non-inclusive. When merchants mandate cashless payment policies for whatever reason, they are picking and choosing which ‘type’ of customers they want to serve, effectively engaging in payment discrimination.

⁷ B23-0122, (Council of the District of Columbia 2019).

<http://lms.dccouncil.us/layouts/15/uploader/AdminProxy.aspx?LegislationId=B23-0122>

⁸ SB 926, Regular Session 2019-2020, (California Legislature 2020).

http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB926

⁹ HB 5703, January Session 2019, (Connecticut General Assembly).

<https://www.cga.ct.gov/2019/BA/pdf/2019HB-05703-R010931-BA.pdf>

¹⁰ HB 1589, Session 2020, (New Hampshire General Court 2019).

http://www.gencourt.state.nh.us/bill_status/billText.aspx?id=1304&txtFormat=html&sy=2020

¹¹ No. 1281-A, (The New York City Council 2018).

<https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3763665&GUID=7800AFC9-D8B1-41FD-9C31-172565712686&Options=ID%7CText%7C&Search=cashless>

¹² S.4574, Regular Sessions 2019-2020, (New York State Legislature 2019).

<https://legislation.nysenate.gov/pdf/bills/2019/S4574>

¹³ S.310, Regular Sessions 2019-2020 (Michigan Legislature 2019).

<http://www.legislature.mi.gov/documents/2019-2020/billintroduced/Senate/pdf/2019-SIB-0310.pdf>

¹⁴ HB 4107, Regular Session 2020 (Oregon State Legislature 2020).

<https://olis.oregonlegislature.gov/liz/2020R1/Measures/Overview/HB4107>

¹⁵ Board Bill No. 47, (St. Louis Board of Aldermen 2019). <https://www.stlouis-mo.gov/internal-apps/legislative/upload/boardbill/BB47-wd13.pdf>

¹⁶ H.902, Regular Session 2019-2020 (Vermont General Assembly 2020).

<https://legislature.vermont.gov/Documents/2020/Docs/BILLS/H-0902/H-0902%20As%20Introduced.pdf>

¹⁷ Ordinance No.19-1085, (City Council of West Hollywood, 2019).

<https://www.weho.org/Home/ShowDocument?id=41637>

¹⁸ AB364, Regular Session 2019-2020, (Wisconsin State Legislature 2019).

<http://docs.legis.wisconsin.gov/2019/related/proposals/ab364>

¹⁹ Massachusetts Law, Discrimination Against Cash Buyers, (1978).

<https://malegislature.gov/laws/generallaws/partiii/titleiv/chapter255d/section10a>

²⁰ New Jersey Law, Discrimination Against Cash-Paying Customers, (2019).

https://www.njleg.state.nj.us/2018/Bills/PL19/50_PDF

²¹ Philadelphia, Cashless Retail Prohibition Ordinance, (2019).

<https://phila.legistar.com/LegislationDetail.aspx?ID=3710586&GUID=FD85947F-8151-4DB5-9949-AF6FEF14A9C9&Options=ID%7CText%7C&Search=180943>

²² Rhode Island, Deceptive Trade Practices, (2019).

<http://webserver.rilin.state.ri.us/BillText/BillText19/HouseText19/H5116A.pdf>

²³ San Francisco, Ordinance 100-19, Acceptance of Cash by Brick-and-Mortar Businesses, (2019).

<https://sfbos.org/sites/default/files/o0100-19.pdf>

This is wrong. And the practice is particularly harmful to marginalized groups, such as unbanked and underbanked Americans.

There are 8.4 million unbanked households in the U.S., and 66% of those unbanked households use only cash to pay their monthly bills. Of the other 24.2 million households in the U.S. that are underbanked, nearly one in four households uses cash to pay their monthly bills.²⁴

In the District of Columbia, nearly 30% of the population is either unbanked (8%) or underbanked (21.2%), which means they are relying on cash for goods or services.²⁵

“For many minorities, [who are disproportionately unbanked and underbanked], the barriers of neighborhood segregation and racial profiling already make shopping extremely difficult—bans on cash can make it all but impossible,”²⁶ wrote Aaron Ross Coleman in *How Cashless Restaurants Reinforce Systemic Racism*, published in GQ Magazine recently.

Payments have become the new digital divide.²⁷ If consumers don’t have access to credit cards, prepaid cards or bank accounts that provide them with a debit card, how can they buy goods or services from merchants who refuse to accept cash? Cashless retail deepens the economic wedge between the ‘haves’ and ‘have-nots.’

Privacy

There is no better form of payment than cash for protecting one’s privacy and security. Cash can’t be hacked or tracked. Paying with cash doesn’t involve sharing personal financial information with a third party, who may store it on a cloud or server, possibly exposing it to future cyber-attacks. The cost of online data breaches was expected to reach a staggering \$2.1 trillion globally in 2019.²⁸

When consumers use electronic payments, a private company not only dictates the terms and conditions of how they use that payment tool, but also may profit from selling the consumer’s personal transaction data. By using cash for legitimate, lawful transactions, consumers have more control over their financial transactions—empowering them to determine with whom they choose to share that personal data.

Conclusion

Innovation in payment systems is important; but should not be at the expense of financial inclusion. This is especially so when significant numbers of Americans, who disproportionately use cash out of necessity, are left behind if the number of cashless retailers continues to grow. Cardtronics looks forward to working with the DC Council to swiftly pass its cashless prohibition bill, aimed at protecting the different ways consumers choose to pay in our growing digital economy. Thank you for your attention to this important matter.

²⁴ FDIC. *National Survey of Unbanked and Underbanked Households*, 2017. <https://www.fdic.gov/householdsurvey/2017/2017report.pdf>

²⁵ *Id.*

²⁶ Coleman, Aaron. *How Cashless Restaurants Reinforce Systemic Racism*. GQ Magazine, January 31, 2020. <https://www.gq.com/story/cashless-restaurants-reinforce-systemic-racism>

²⁷ United States. Cong. House. Committee on Financial Services Task Force on Financial Technology. *Hearing on Is Cash Still King? Reviewing the Rise of Mobile Payments* January 30, 2020. 116th Cong. 2nd sess. Washington: GPO, 2020 (Testimony of Aaron Klein, Fellow, Economic Studies, Brookings Institution).

²⁸ Juniper Research. *CYBERCRIME WILL COST BUSINESSES OVER \$2 TRILLION BY 2019*, Press Release, May 12, 2015. <https://www.juniperresearch.com/press/press-releases/cybercrime-cost-businesses-over-2trillion>

For more information, please contact Crystal Wright at 202/549-8072 or cwright@cardtronics.com.



DC Chamber of Commerce Testimony
To
The Committee of the Whole
on
Bill 23-122, Cashless Retailers Prohibition Act of 2019
Thursday, February 13, 2020

Good morning Chairman Mendelson, and other members of the Committee. I am Erika Wadlington, Director of Public Policy & Programs at the DC Chamber of Commerce. I am pleased to be here today to represent the member companies of the Chamber, the hundreds of thousands of workers they employ, and the millions of dollars in District tax revenue they provide yearly to the District coffers. Thank you for the opportunity to provide feedback on **Bill 23-122, Cashless Retailers Prohibition Act of 2019**. In the review of this proposed policy, we see a significant impact on current and emerging businesses to the District, as well as, a hindrance to our innovative and creative economy. As such, the DC Chamber of Commerce cannot support the introduced bill and invites your attention to provisions that we have identified that are of concern.

The D.C. Chamber of Commerce represents businesses large and small throughout the District of Columbia and region. At the D.C. Chamber, we work hard to make living, working, playing, and doing business in D.C. a much better proposition for all. And we, at the DC Chamber, support ensuring that to build a competitive city, effective partnerships and initiatives are in place to increase economic development and grow our economy. Regrettably, however, Bill 23-122 is not the vehicle to ensure that this important goal is met.

1. **The Bill is Broad Impacting Several Industry Sectors.** While framed as impacting retailers this bill would ultimately impact more than your traditional store. As drafted, the definition of a retailer includes any licensed business entity or person who sells products or services in a retail setting in small quantities directly to the ultimate consumer. This reads broad enough to encompass any point of sale by an entity with a basic business license that has cashless customer transactions, not just a traditional retail store or foodservice establishment. That could include all types of businesses including retail grocers, coffee shops & cafes, vendors at festivals and trade shows (conventions), street vendors, chain stores, health clubs and spas, parking lots, hotels, sport and entertainment venues, and transportation companies. Moreover, with no detailed exceptions in the bill, industries, and platforms that are

completely cashless including e-commerce, social commerce, online and digital sales, or have a digital sales platform that is cashless like mobile applications and subscriptions, and sports betting we feel could also fall under this definition. Subsequently, their sales would be prohibited in the District and not captured as revenue in the City's budget. Should the committee move forward with the bill we ask that clarifying language is added that would address this concern.

We would want to ensure that these job creators feel comfortable growing their innovative operations here in the City. Many of these business industries whether they have a completely cashless model or certain functions of their enterprise are digital and/or cashless choose to do so for a variety of reasons. For some, it allows them to remove inefficiencies associated with managing cash, eliminates any inaccuracies or accounting issues created by human error. There are costs associated with handling, transporting, and safeguarding cash (including security, labor, and insurance costs) that the bill does not address. More commonly for businesses in our region, it provides safety to the employees of the business by not putting them at risk of theft thus creating a safer work environment and addresses concerns businesses may have about dealing with counterfeit cash. Even in regions and economies with high-inflation, cash can be a liability. Those societies have found a way through mobile banking, digital transactions, community partnerships, and technology to remain inclusive without prohibiting economic activity like B22-122 seeks to do. Consumers are paying more and more by the tap of their phone rather than dollar bills. In today's competitive and ever-changing business landscape, the preference of some is that payments using a card, app, or computer, conversely, are transparent, clean, and usually quite simple. According to the Pew Research Center, 95 percent of Americans have a mobile phone and some groups are nearing saturation with close to 99 percent ownership. These devices coupled with advances in financial technology and public-private partnerships have increased inclusion.

Because the bill does not include an effective date that would allow businesses sufficient time to change practices, the bill should grant existing retailers with current BBL the right to refuse or the option of accepting cash. Each business owner works carefully to create a work environment and business model both fitting the needs of its company and is competitive to its industry. We urge the Council to ensure that business autonomy and flexibility are maintained.

Additionally, although presumably not the target of the bill, requiring cash options for all transactions could place the banking and financial services industry in legal jeopardy with preexisting federal and local statutes that would require them not to accept cash in some limited transactions. The Chamber and its members are happy to work with you on ways we believe can address those issues should the committee want to take up this issue.

- 2. The Bill would Create Administrative and Compliance Concerns that Cannot be Addressed through Redrafting or Amendments.** As you know, technology has transformed many of our industries. Today we have subscription boxes. Personalized clothing. Pop up stores. In-store Kiosks. Scan & Go Options. Physical stores for browsing and returns only. And many more models that may arrive through innovation or consumer demand. Some retail establishments may have front end automation that is cashless, others may just have an online presence that is cashless and it is unclear if their entire business would be prohibited in the District should this bill pass or just the cashless portion of their business. Moreover, the ways in which customer service and in-person transactions have rapidly evolved has caused some businesses to offer “parallel” experiences, where self-service and traditional retail interactions co-exist. We are concerned that should this bill pass, those models would also be impacted. What should a retail pharmacy or grocer do if, for instance, a register goes down, the self-checkout kiosk has a malfunction and can only accept debit or credit transactions or there is a change in shifts meaning that at a point in time that particular retailer would be cashless? Under the bill, it is presumed that that establishment would be out of compliance. We are concerned that the bill does not include any exemptions or provisions for instances that are outside of an employer’s control. But these are examples of how our evolving economy needs to be flexible and a one-size-fits-all approach to sales or economic innovation would not work in all situations.

However, without addressing these aforementioned issues in the bill, we cannot be supportive.

- 3. Bill would impact innovative models and economic development.** Unlike most jurisdictions, the District of Columbia has to compete for business with our surrounding jurisdictions, and unlike any other jurisdiction, we are also the Nation’s Capital, which poses its own challenges. As the District vies to be the destination location for new businesses and the future headquarters of others, it must seek a balance of its regulatory and legislative environment if it plans to maintain the companies it has already acquired and those businesses who have yet to open their doors within our eight wards. Having another mandate on employers that impedes on their ability to make their own operational decisions limits growth and the District’s competitiveness. These establishments are anchor tenants in planned development, rent commercial space and contribute to our economy. Our members would encourage the Council to work with the business community to incentivize innovative models while increasing economic inclusion versus mandating a new policy like Bill 21-122 which would make certain business sales unlawful.

We support an inclusive economy; however, the business community agrees this bill is not the right policy approach to addressing the needs of everyone in the District of Columbia.

The DC Chamber of Commerce, our member financial institutions, and retail establishments are ready to engage with you on a broader and separate discussion regarding cross-sector strategies that can support a more inclusive, equitable DC economy. Therefore, B23-122 should not be considered.

At the DC Chamber, we are dedicated to ensuring that our city continues to grow and prosper together and that mission includes the promotion of responsible corporate practices. However, such a mission cannot be fulfilled without the partnership and inclusion of the public sector and policymakers. Thank you for the opportunity to comment on Bill 23-122.

February 13, 2020

**National Automatic Merchandising Association Testimony
Council of the District of Columbia
Committee of the Whole**

Re: B23-0122 - Cashless Retailers Prohibition Act of 2019

Summary:

The National Automatic Merchandising Association (“NAMA”) is the national trade association that represents the \$26 billion convenience services industry, which includes operators of vending companies specializing in vending machines, micro markets, and office coffee and pantry services.

NAMA is understanding of the goal of this legislation; however, we are unable to support the legislation as introduced. Most of the business done by NAMA members occurs in employee breakrooms and not in public locations. Because of this NAMA urges the council to create an exception to the cash acceptance mandate that exempts “consumer goods or services provided exclusively to employees and others authorized to be on the employer’s premises”

Prepared Testimony:

Wes Fisher
Manager, Government Affairs
wfisher@namanow.org
571-348-9899

Good morning Mr. Chairman and Councilmembers:

My name is Wes Fisher, and I am the Government Affairs Manager at NAMA, the National Automatic Merchandising Association.

On behalf of NAMA, representing hundreds of large and small businesses that provide vending, coffee and convenience services to thousands of customers in the District of Columbia each day, I appreciate the opportunity to deliver the following comments regarding the Cashless Retailers Prohibition Act.

Founded in 1936, NAMA is the association representing the \$26 billion U.S. convenience services industry, with its core membership being comprised of owners and operators of vending machines, micro markets, office coffee, tea, water, and pantry service companies. In the District of Columbia, the convenience services industry represents nearly \$40 million in annual economic impact and employs close to 200 residents. NAMA works to promote the convenience services industry across the nation. Additionally, NAMA works towards positive advancements in public health and nutrition. Knowing that nearly 1 million Americans consume products from vending daily, NAMA recently announced a public health commitment to increase “better for you” options in vending machines throughout the nation by 33% over the next three years.

NAMA understands the goal of inclusion that this legislation is aiming to achieve and is an industry that has had a long history of mostly accepting cash and coins, however we are concerned with the

wide-reaching effects this legislation would have that do not have any bearing on the intent of the bill.

The issue of mandating cash acceptance for retail transactions has been introduced in several states and localities in the past years, with language varying broadly across proposals. With this being a relatively new policy issue, the District Council has a unique opportunity to carefully craft the language of this legislation and create the most effective way of protecting District residents from discrimination while not unnecessarily stifling technological advancement.

The Convenience Services industry is uniquely impacted by this legislation because of a new vending concept, unattended retail locations called micro markets. These locations resemble a small unattended store with a self-checkout kiosk and offers refreshments, replacing a traditional bank of vending machines. These micro markets are typically located in secure locations like employee breakrooms and provide the opportunity to offer healthier and more abundant selections compared to traditional vending machines. Many of these locations are closed to the public do not accept cash and instead have the option for employees to pay with a stored value card or credit card.

The small businesses that operate these locations would incur great costs by switching over to cash. One of the programs potentially affected would be the Randolph Sheppard Blind Vendor Program which allows for blind and visually impaired individuals to make a living by operating vending and micro markets in DC and Federal Government buildings.

Due to this technology, we would like to request a narrow amendment to this legislation that exempts employee breakrooms from the cashless retailer prohibition and limits the retailer definition to in-person, public transactions. This amendment will still achieve the desired effect of the legislation while allowing operators to provide healthier meals and snacks to employees.

Thank you for allowing NAMA to testify and thank you for your service to the District of Columbia, we hope to engage with you further on this legislation.

Proposed Amendments to B23-0122

Proposed Language in bold/underline

Lines 40-42:

*"For the purposes of this chapter, the term "retailer" means a person holding a basic business license who sells products or services **in an in-person, open to the public** retail setting in small quantities directly to the ultimate consumer."*

After line 48:

Except:

(a) "consumer goods or services provided exclusively to employees and others authorized to be on the employer's premises"



Independent Research. Poverty Solutions. Better DC Government.

**Testimony of Tazra Mitchell, Policy Director, DCFPI
Committee of the Whole Public Hearing
B23-122, Cashless Retailers Prohibition Act of 2019
February 13, 2020**

Chairman Mendelson and members of the Committee, thank you for the opportunity to provide testimony. My name is Tazra Mitchell, and I am the Policy Director at the DC Fiscal Policy Institute (DCFPI). DCFPI is an anti-poverty non-profit organization that promotes opportunity and widespread prosperity through rigorous research and policy solutions to address DC's racial and economic inequities.

I'm here today to testify in favor of the Cashless Retailers Prohibition Act, which would prohibit retailers from refusing to accept cash payments and therefore protect DC residents who lack bank accounts and credit cards.

Simply put, a cashless economy is not an inclusive economy. When retailers refuse to accept cash, they discriminate against individuals who are struggling to make ends meet, communities of color, and our homeless neighbors. People facing tough economic times shouldn't have to jump through hoops to access necessities like food, clothing, and toiletries.

DCFPI is proud to support this bill because it would make sure that low-income DC residents—many of whom already experience segregation in education, employment, and housing—do not also experience segregation in our retail economy.

The Act Would Protect the One in Three DC Households that Are Un- or Underbanked

Participation in a cashless society requires a level of financial stability that many DC residents simply do not have. Opening a bank account requires a form of identification, which many people who are poor and older lack. It also requires other documents such as a utility bill or other proof of address, which people facing homelessness often lack. And, banks charge fees and overdraft penalties that can be significant for people living on the economic margins. The Cashless Retailers Prohibition Act would help ensure that people facing these hurdles aren't further excluded or pushed out of our economy.

As a result of these hurdles, nearly one-third of DC households rely on cash for daily needs because they are unbanked or underbanked, particularly people living in crisis and facing homelessness, according to the Federal Deposit Insurance Corporation (FDIC).¹ A household is unbanked when no one in the household has a bank account, and it is underbanked if no one has an account but rely on alternative financial products, such as a check cashing service or pawn shop loan.

Black DC residents are 3.5 times more likely to be un- or under-banked compared with white DC residents.² Similarly large disparities exist between DC residents with a high school diploma and those with a college degree, with higher education increasing the likelihood of being banked. Unsurprisingly, lower income families are less likely to be banked. There is limited data for DC due to small sample sizes, but across the US, nearly 35 percent of households with annual incomes of \$15,000 to \$30,000 are un- or underbanked. Among families with annual incomes of less than \$15,000, the rate soars to nearly half. Further, a large share of Americans who are 25 to 64 and living with disabilities are un- or underbanked.

The Cashless Business Model Reinforces Institutional Racism

Refusing to accept cash payments reinforces institutional racism because of the foundational inequalities in banking. It is no accident that Black DC residents are 3.5 times more likely to be un- or underbanked than white residents—this is by design. Black and low-income residents tend to have less access to credit and debit cards due to exclusionary policy choices, such as redlining, and a tiered financial system, in which the wealthy and low-income families have access to vastly different tools for banking and wealth accumulation.

Beyond banking, Black residents already bear the brunt of economic hardship in the District, with one in four living in poverty. Black income is a fraction of white income, and disparities in wealth are even starker. In fact, Black median household income is no higher today than it was a decade ago, adjusting for inflation. These outcomes illustrate the economic harm that structural racism and exclusionary practices have caused Black families as well as the urgent need to remove economic barriers holding back people who are doing their best to get by.

Retailers in DC didn't create structural banking inequalities, but when they exclude cash as a payment option, they compound decades of exclusionary financial practices. It may not be a retailer's *intention* to discriminate by refusing to accept cash, but the *impact* is that it does just that by punishing people who are underbanked. The convenience that retailers seek when they go cashless should not trump fair access to basic goods.

DC Council Should Pass this Bill and Pair It with Broader Policy Solutions

The District's long-term success depends on ensuring that everyone has the chance to participate in the economy. DC policymakers should continue to work to expand access to financial institutions, raise wages, enforce wage theft laws, and advance other pathways to economic opportunity—but no doors should be closed to people relying on cash. DCFPI encourages you to vote aye on this bill.

Thank you for the opportunity to testify.

¹ FDIC, "2017 FDIC National Survey of Unbanked and Underbanked Households: Survey Results for District of Columbia," 2017, <https://economicinclusion.gov/surveys/2017household/>.

² Data are not available for Hispanic, Asian, or other racial or ethnic groups. Ibid.

Zachary Hoffman, Public witness
Committee of the Whole - Written Testimony 2/13/20
B23-122, Cashless Retailers Prohibition Act of 2019

Good morning and thank you Councilmembers and committee staff for allowing me to testify today. My name is Zachary Hoffman, I am the Vice President of the DC Bar and Restaurant Workers Alliance however today I am testifying as a public witness and please let the transcript reflect as such.

I am here today to show my support for the bill B23-122, Cashless Retailers Prohibition Act of 2019. As we all know, cash is king. However in the last 20 years credit and debit cards have become a necessity for many. We have adapted to this new economic tool by shifting to sophisticated point of sale platforms and innovative register configurations to accept cards and ease the transaction process. All of this innovation and evolution has made us more agile and capable of providing goods and services to the communities where we do business. Most of the progress that's been made is positive. We must remember that at the core of everything related to transactions, the US Dollar is at the core of it all. The idea to simply eliminate cash as a payment option altogether is not new. This thinking, while I hope unintentional, is inherently elitist and classist and it can be used to purposely exclude certain groups from an establishment due to bias and prejudices.

Cash is the single most egalitarian form of payment we have in this country. DC has an obligation to uphold the idea that no matter who you are, how you identify, or how much money you make, your money is just as good as anyone else's. There are countless reasons why someone would choose to use cash exclusively and there are a whole host of circumstances that can make someone unbanked. Neither choice or life circumstance should have any impact on your ability to patronize a business of any kind anywhere in DC while you have the ability to pay with legal tender. To do otherwise is to perpetuate a culture that has carte blanche to discriminate and exclude our residents based upon their preferred or only means of payment. I support this bill and its intention to make cashless businesses extinct in our District, and I would add that no exception for large venues or specific licencing categories should be entertained on this issue. I urge the committee to approve this bill and make this legislation law. Thank you, and I am happy to answer any questions.

My name is Meryl Chertoff, and I direct the Georgetown Project on State and Local Government Law and Policy. I am also an adjunct professor at the Law School. I am here to testify in favor of B23-122.

Having five dollars in your pocket gives a person dignity. But in DC today, five dollars in your pocket no longer may buy you a cup of coffee, and its not because prices have gone up at the corner coffee shop. It is because an increasing number of businesses in the city won't accept cash. The tech and financial services industry now has decided that efficiency dictates that the legal currency of the United States is unwelcome in a growing number of commercial establishments

"We are cash-free" signs blast at some local businesses. But who does that hurt? Some of us-the unbanked who are disproportionately people of color. And all of us: because the more transactions we are forced to do cashless, the less privacy each one of us has.

Around the country, measures are being adopted to protect Americans from yet another effort to make some of us second class citizens and to harvest data from the rest of us.

New York City last month became the latest jurisdiction to allow a customer to choose whether to pay using cash or cashless. Philadelphia passed a similar law in February 2019 and New Jersey did so the same year. In Massachusetts there has been a law on the books since 1978 that says that retailers cannot discriminate against a cash buyer by requiring the use of credit.

In 2017, the FDIC that roughly 8.4 million U.S. households were unbanked, and an additional 24 million were underbanked. Residents of the District have either no access to bank accounts or significantly limited access to financial services at higher rates than the national average. Of all households in the District, 29.4% had significantly limited access and 8% had no access, according to a 2017 survey from the Federal Deposit Insurance Corporation.

Nationally, according to a 2015 FDIC survey 7 percent of U.S. households did not have a checking or savings account; among black and Latino households, that figure was more than twice as high, nearly 14%.

Many undocumented people also are unbanked, meaning that all their purchases must be made in cash.

While being low-income is not itself a category protected by Federal civil rights laws, the fact that an increasing number of businesses are going cashless means that they effectively discriminate against blacks, Latinos and the undocumented.

It also contributes to a sense that some are less equal citizens than others. I have seen this with my own eyes. At one DC retail establishment, co-located in a DC Government building, cash is not accepted. The homeless people who sometimes take shelter in this

warm and welcoming building would not be able to buy even a cup of coffee in the co-located restaurant were it not for the compassion of the servers. One told me she will take cash from such people and use her own credit card to pay for the purchase of their soup or a coffee.

Cash is an equalizer. It gives anyone holding it dignity. A cashless model creates two tiers of retail: those reserved exclusively for the banked and those where everyone else can shop, eat and receive basic services. While it is true that cash in the till can attract crime, going cashless breeds the kind of class resentment that instigates crime.

Plain and simple, cashless perpetuates inequality.

I would be remiss if I did not note here that Georgetown students are concerned about these inequalities, and that The Hoya, the student newspaper at main campus, has done a terrific job of reporting on it, and has editorialized in favor of this bill based on the equity and dignity interests it protects.

Then there is the question of privacy. It is no surprise that the drivers of cashless business are largely big tech. For each transaction you do without cash, more data is harvested about your location, purchasing habits and preferences. A cash purchase-- be it of coffee, cigarettes or medicine-- allows you to maintain your anonymity. And if you think this sort of surveillance society based on your cashless purchases are far off, consider that in China, purchases are monitored and become part of the social credit score that determine your access to a variety of benefits.

Just because cashless businesses are only a fraction of those operating in DC today, numbers can change. In Sweden today bills and coins make up only 1% of the economy. Economics professor Kenneth Rogoff of Harvard estimates that the US is on a trajectory to the same point over the next 5-7 years. B23-122 is part of a trend that could slow that down.

Cashless means that the real world increasingly mirrors the online one: where every click, or in this case every swipe, allows the marketers to build a more granular profile of who you are. Many measures will be needed to put an end to that. B23-122 is a good start.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**



Public Hearing
On
B23-122, the “Cashless Retailers Prohibition Act of 2019”

Testimony of
Ernest Chrappah
Director
Department of Consumer and Regulatory Affairs

Before the
Committee of the Whole
Council of the District of Columbia
The Honorable Phil Mendelson, Chairman

February 13, 2020
10:00 am
Room 120
John A Wilson Building

1350 Pennsylvania Avenue, NW
Washington, DC 20004

Good morning, Chairman Mendelson, Councilmembers, and staff. I am Ernest Chrappah, the Director of the Department of Consumer and Regulatory Affairs (DCRA). I am here this morning to testify on Bill 23-122, the “Cashless Retailers Prohibition Act of 2019.”

DCRA’s primary mission is to protect the health, safety, economic interests and quality of life of residents, businesses, and visitors in the District of Columbia by ensuring code compliance and regulating businesses. We take our mission seriously and believe we have an obligation to promote the economic interests of all residents by providing them a city that is equitable and inclusive.

As the District continues to embrace the current technological trends that seem to favor cashless payment methods, we must also remember those who are being left behind during this transactional transformation. A recent study conducted by the Federal Reserve shows that cash transactions in the United States have fallen from 40.7 percent of all transactions in 2012 to 31 percent in 2017. Although these numbers point to a steady increase in cashless payment methods, these numbers do not paint the whole picture.

A sizeable portion of the District’s population is unbanked or underbanked. According to a report by the Federal Deposit Insurance Corporation in 2017, eight percent of District households are unbanked and 21.2 percent of District households are underbanked. According to this report, there are roughly 342,000 households in DC, which means there are 93,500 households that are either unbanked or underbanked. Taking these numbers into account and pairing them with a national statistic that 17 percent of all African-American households and 15 percent of all Latino households do not have a bank account, one can begin to see how cashless businesses can put some of our residents at a disadvantage. We, as a District, must take note of these numbers and continue to pursue policies and programs that will get all of our residents fully banked. If we do not, these

communities will be left behind, unable to access the global economy that has shifted away from the traditional tender of the United States. Programs like Bank on DC, which was established to help District residents setup bank accounts, are pivotal to the economic growth and survival of District residents. Since its inception in 2010, Bank on DC has opened 11,830 accounts that have saved individual residents \$800 per year in check cashing fees, or an estimated savings of approximately \$9.4 million over the life of the program. We ask that the Council continue to support Bank on DC.

According to a study conducted by the Federal Reserve Bank of San Francisco in 2017, roughly 60 percent of in-person transactions under \$10 were conducted with cash; indicating a strong preference for this form of payment, especially for small transactions. We believe the District should be open for business to everyone, whether that customer is using paper, plastic, or electronic forms of payment. We support the intent of Bill 23-122 because it keeps the doors open to those still wishing to pay in cash.

With that said, the Executive also believes it is important to raise the concerns of those business owners who operate cashless entities in the District. Cashless businesses contend that by not accepting cash they are able to increase efficiencies, revenues, overall employee and patron safety, convenience, and environmental sustainability. By eliminating cash transactions, business owners are able to remove physical cash registers, eliminate the time employees spend manually counting and managing money, and deter robberies. These are legitimate factors that the Council should keep in mind as this issue is discussed.

We also recommend that the Council clarify the definition of what is considered a retailer under this bill. Our recommendation would be to limit the scope to brick and mortar establishments and consider exemptions for businesses like parking garages that are automated and rental car

businesses that require credit cards to cover damages. New Jersey, New York City, and Philadelphia have such exemptions that are worth examining.

Thank you for the opportunity to testify today. I look forward to answering any questions you may have.

Shireen Rose Shakouri
Testimony in favor of Bill 23-122

ATTN: Committee of the Whole, Council of the District of Columbia
Suite 410 of the John A. Wilson Building
1350 Pennsylvania Avenue, N.W.,
Washington, D.C. 20004

17 February 2019

Dear Chairman Mendelson and the rest of the Council of the District of Columbia:

I am writing to express my strong support for Bill 23-122, the “Cashless Retailers Prohibition Act of 2019.”

My opposition to cashless retailers can be summed up in a concise way: I believe they are discriminatory to poor people, young people, undocumented people, and returning citizens – all of whom are likely to be un-banked or under-banked. And the American Civil Liberties Union agrees with me, per their August 2019 article, “Say No to the ‘Cashless Future’ – And to Cashless Stores” by Senior Policy Analyst Jay Stanley. I’d encourage the entire council to give the report a thorough read.

Growing up, the idea that any retailer would turn someone away because they needed to pay in cash would have been incomprehensible. I’m sure it would have been the same for many on the Council. As a young person, I’d almost never have access to my parents’ credit cards, and I could use the slim wages I earned tutoring or babysitting to go to the few places I was allowed out alone with friends. We’d be more likely to end up somewhere cash-only, which would sometimes lead to a back-and-forth with the clerk on how much something would cost *with tax* to ensure I had enough to make the purchase. Eliminating the ability to pay in cash excludes youth – most of whom won’t have a credit card or free ability to use mobile payment – from establishments. It’s patently ageist.

Simply put: cashless retail and services draw a line in the sand of who an establishment aims to allow in their doors. The same mentality that promotes cashless retail as beneficial to society is the one that has applauded unfettered displacement and rising rental costs in the name of business development. It’s choked out those of lesser resources and painted it as progress – worsening the affordable housing crisis and putting some community members on the streets. I don’t think it’s an exaggeration to link the issues, because both cater to one population of D.C. residents (and prospective residents) at the expense of the lower-income D.C. residents and often longer-term residents.

The first cashless establishment I encountered in D.C. was on H street, an area I lived in for a year and was quickly priced out of, even as one of the residents that gentrification-enabling

policies aim to attract: a college-educated professional with money to burn at bars and hip restaurants and indie bookstores. What struck me in particular about this restaurant converting to cashless was not just that it was a vegan restaurant – which is often though certainly not always paired with humanitarian values – but that they had a big sign inside that read that it was a "safe space for everyone" along with being "diverse inclusive accepting [and] welcoming." It seemed their "welcoming" ended at poor people and the under-banked.

This is not what community looks like. This is not what an inclusive, forward-thinking city looks like. I am one of the many D.C. residents who has grown fatigued by the culture that has brewed here for years that wears the banner – or yard sign – of inclusivity while shutting others out. Enough. Please move this bill forward and make D.C. cashless-LESS.

**Testimony of Marian Messing
Sidley Austin Appellate Advocacy Fellow
Legal Aid Society of the District of Columbia**

**Before the Committee of the Whole
Council of the District of Columbia**

Public Hearing Regarding:

**Bill 23-0122
“Cashless Retailers Prohibition Act”**

February 13, 2020

The Legal Aid Society of the District of Columbia¹ submits the following testimony in support of the Cashless Retailers Prohibition Act, B23-0122.

The Bill Promotes an Inclusive Economy

This bill would ensure that all District residents can access products and services provided by all District retailers. Paying for a product or service with a debit or credit card requires a bank account. But the most recent data published by the Federal Deposit Insurance Corporation suggest that nearly 30% of District residents primarily use cash or use only cash rather than a debit or credit card.

¹ The Legal Aid Society of the District of Columbia was formed in 1932 to “provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs.” Legal Aid is the oldest and largest general civil legal services program in the District of Columbia. Over the last 88 years, Legal Aid staff and volunteers have been making justice real – in individual and systemic ways – for tens of thousands of persons living in poverty in the District. The largest part of our work comprises individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal justice system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. More information about Legal Aid is available on our website, www.LegalAidDC.org, and our blog, www.MakingJusticeReal.org.

More specifically, 8.0% of District households are “unbanked,”² which means that no household member has a checking or savings account at a federally insured depository institution.³ An additional 21.2% of District households are “underbanked,”⁴ which means that the household has a checking or savings account at a federally insured depository institution, but in the past 12 months, the household used products or services from a non-federally insured alternative financial services provider such as a check-cashing outlet, payday lender, pawnshop, money order provider, or rent-to-own store.⁵

Moreover, only 62.6% of District households are “fully banked,”⁶ which means that the household has a bank account and used no alternative financial services in the past 12 months.⁷ This is one of the lowest rates in the country: only Georgia, Louisiana, Mississippi, Nevada, and Texas have lower rates of fully banked households.⁸

The data also reveal sharp disparities in access to banking services based on race. District households headed by a black owner or renter⁹ are 32 times as likely as households headed by a white owner or renter to be unbanked (16.0% versus 0.5%) and more than twice as likely to be underbanked (29.3% versus 12.6%).¹⁰ Meanwhile, District households headed by a white owner

² *Unbanked and Underbanked for District of Columbia, 2017 by Selected Household Characteristics*, FEDERAL DEPOSIT INSURANCE CORP. 1 (Oct. 2018), https://economicinclusion.gov/surveys/2017household/documents/tabular-results/2017_banking_status_District_of_Columbia.pdf (last visited Feb. 9, 2020).

³ *2017 FDIC National Survey of Unbanked and Underbanked Households*, FEDERAL DEPOSIT INSURANCE CORP. 1, 13 (Oct. 2018), https://economicinclusion.gov/downloads/2017_FDIC_Unbanked_HH_Survey_Report.pdf (last visited Feb. 9, 2020).

⁴ *Unbanked and Underbanked for District of Columbia*, *supra* note 2, at 1.

⁵ *2017 FDIC National Survey of Unbanked and Underbanked Households*, *supra* note 3, at 1, 8 n.11.

⁶ *Unbanked and Underbanked for District of Columbia*, *supra* note 2, at 1.

⁷ *2017 FDIC National Survey of Unbanked and Underbanked Households*, *supra* note 3, at 1.

⁸ *2017 FDIC National Survey of Unbanked and Underbanked Households: Appendix Tables*, FEDERAL DEPOSIT INSURANCE CORP. 11-12 tbl.A.7 (Oct. 2018), https://economicinclusion.gov/downloads/2017_FDIC_Unbanked_HH_Survey_Appendix.pdf (last visited Feb. 9, 2020).

⁹ The Federal Deposit Insurance Corporation assigned race at the household level based on the race of the owner or renter of the home. *2017 FDIC National Survey of Unbanked and Underbanked Households*, *supra* note 3, at 2 n.4.

¹⁰ *Unbanked and Underbanked for District of Columbia*, *supra* note 2, at 1.

or renter are fully banked at nearly twice the rate of households headed by a black owner or renter (80.5% versus 44.2%).¹¹ (Data on other racial and ethnic groups are unavailable.)

Further, research shows that immigrants use banking services at a much lower rate than U.S.-born consumers.¹² This inequality is due both to barriers that affect low-income people in general and to barriers that affect immigrants in particular, such as confusion on the part of both bank employees and prospective customers about identification documents required to open a bank account,¹³ fear that banks will share customer information with immigration authorities, and limited English proficiency.¹⁴ With nearly 95,000 immigrants comprising 14% of the District's population,¹⁵ it is likely that a substantial proportion of District residents are unable to access banking services due to these types of barriers.

In sum, given District residents' distressingly low use of federally insured banking services – a problem that disproportionately affects low-income,¹⁶ black, and immigrant households – the recent trend of businesses going cashless shuts tens, if not hundreds, of thousands of District residents out of the retail market. This bill is essential to ensure that *all* District residents can enjoy products and services at *all* District retailers. Passing this bill would enable the District to

¹¹ *Id.*

¹² *Financial Access for Immigrants: Lessons from Diverse Perspectives*, FEDERAL RESERVE BANK OF CHICAGO & THE BROOKINGS INSTITUTION 6 (May 2006), https://www.brookings.edu/wp-content/uploads/2016/06/20060504_financialaccess.pdf (last visited Feb. 9, 2020).

¹³ Many banks will accept foreign passports, consular identification, or other identification instead of a Social Security number to open an account. *Financial Education Programs Serving Immigrant Populations*, CONSUMER FINANCIAL PROTECTION BUREAU 14 (July 2016), https://files.consumerfinance.gov/f/documents/20160714_cfpb_report_fined_immigrant_May_20_2016_FINAL.pdf (last visited Feb. 9, 2020); Diana Elliott & Caleb Quakenbush, *What Would Help DC Residents Have Greater Financial Security?*, URBAN INSTITUTE 25 (June 2019), https://www.urban.org/sites/default/files/publication/100363/what_would_help_dc_residents_have_greater_financial_security_0.pdf (last visited Feb. 10, 2020).

¹⁴ *Financial Education Programs Serving Immigrant Populations*, *supra* note 13, at 11-18.

¹⁵ *Selected Characteristics of the Native and Foreign-Born Populations: 2013-2017 American Community Survey 5-Year Estimates*, U.S. CENSUS BUREAU, https://factfinder.census.gov/bkmk/table/1.0/en/ACS/17_5YR/S0501/0500000US11001 (last visited Feb. 9, 2020).

¹⁶ Data on banking status among the bottom income strata are unavailable for the District, but nationwide, households earning fewer than \$15,000 per year are unbanked and underbanked at much higher rates than households earning at least \$75,000 per year. *2017 FDIC National Survey of Unbanked and Underbanked Households: Appendix Tables*, *supra* note 8, at 1 tbl.A.1.

join Massachusetts, New Jersey, New York City, Philadelphia, and San Francisco, all of which have banned retailers from refusing to accept cash.¹⁷

Inclusion and Access Should Outweigh Convenience for Retailers

Retailers that adopt no-cash policies tend to claim that going cashless is more efficient because it reduces time spent counting change and safer because it diminishes the possibility of theft by employees or others.¹⁸ But convenience for retailers should not receive greater protection than the rights of all District residents to access those retailers' products or services. The harm to residents of retailers going cashless is large because no-cash policies in effect discriminate against patrons based on income, wealth, race, and national origin. In contrast, the burden that accepting cash imposes on retailers is small; after all, retailers accepted cash for decades and remained profitable. And because all District retailers will have to comply with the law, no retailer will enjoy a competitive advantage that it might otherwise gain by going cashless.

Ultimately, excluding low-income, black, and immigrant District residents from patronizing businesses for the sake of retailers' own convenience offends basic notions of equality and justice. Passing this bill would demonstrate that the people of the District of Columbia prioritize the core civil right of access to places of public accommodation over corporate profit.

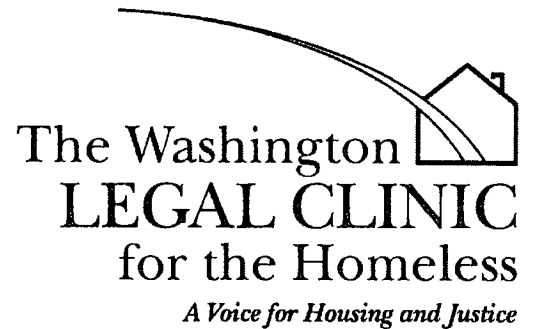
Conclusion

Legal Aid strongly supports the Cashless Retailers Prohibition Act. Thank you for the opportunity to submit written testimony.

¹⁷ Alina Selyukh, *Cities and States Are Saying No to Cashless Shops*, NATIONAL PUBLIC RADIO (Feb. 6, 2020), <https://t.co/oFvBAiEp6A>.

¹⁸ *Id.*; Ally Schweitzer, *How a 'Cashless' Future Could Leave Many D.C. Residents Shortchanged*, WAMU (Aug. 29, 2018), <https://t.co/a5O1mZrH2k>.

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D.C. Council Committee of the Whole- Hearing on the Cashless Retailers Prohibition Act of 2019- February 13, 2020

Testimony of: *Brittany K. Ruffin, Affordable Housing Advocacy Attorney*
Morrison Alston Neville, Legal Intern

Good afternoon, Councilmembers. Since 1987, the Washington Legal Clinic for the Homeless has envisioned and worked towards a just and inclusive community for all residents of the District of Columbia—where housing is a human right and where every individual and family has equal access to the resources they need to thrive. Unfortunately, our vision is still that—a vision. Currently, there is no right to housing; and, it is hard for the vast majority of our vulnerable residents to focus on thriving when basic survival has become such a challenge.

A growing number of businesses in the District have implemented systems to adopt cashless policies and prohibit patrons from using cash as payment for services. Cashless business policies have, unfortunately, become an increasing trend nationwide. In some instances, credit card companies even provide short-term funding to businesses as an incentive to stop accepting cash from customers—a highly problematic practice. Cashless policies are inherently unfair to potential patrons, particularly the city's no- and low-income populations. Cashless policies would exclude patrons who do not have bank accounts or credit cards and prohibit access to local retailers. Thus, the Council must support the Cashless Retailers Prohibition Act of 2019.

According to a 2017 FDIC national survey, twenty-five percent of households were unbanked (had no checking or savings account) or underbanked (have checking/savings accounts, but must also use alternative financial services such as check cashing or payday loans). Among African-American households, 16.9% nationally did not have bank accounts in 2017, the most recent year for available data. Approximately 14% of Latino households did not have a bank account. More than half of unbanked households, 57.5 percent, cite not having enough money as the reason for not having a bank account. Low fee and low balance bank accounts are not generally profitable for banks. Therefore, minimum balance requirements, insufficient funds fees, and overdraft fees can make bank accounts expensive and limit their value for low-income households. For many consumers, operating outside of the formal financial sector and using cash can also be a preferred and safer option.

In the District, 11.8 percent of all households are unbanked and have no access to traditional savings or checking accounts, according to a Prosperity Now 2016 scorecard. Another 24.8 percent of District households are underbanked and may not have access to a debit or credit card. Therefore, more than 36 percent of DC households might have trouble swiping a card at a register. Cashless businesses would impact more than a third of the District's population. The percentage of impacted individuals is undoubtedly higher when factoring in those who live outside of DC and commute to the District for work or tourism, spending money in the city throughout the day.

Cash is the lowest barrier form of payment. Cash can be tendered by anyone regardless of socioeconomic status, citizenship, race, age, or creditworthiness. Cash does not involve fees, identification, or registration in order to obtain, spend, or accept it. Fundamentally, by denying consumers the ability to use cash as a form of payment, businesses are effectively telling homeless, low-income, immigrant, minority, elderly, and young patrons that they are not welcome.

Continued gentrification in the District has succeeded in displacing large populations of the city's Black and brown population. Cashless policies perpetuate discrimination based on income and access to credit and would only further the effects of gentrification in the District. Given the documented racial and socioeconomic disparities around credit score, cashless policies allow businesses to limit the ability of Black, brown, and impoverished people to access goods and services. Cashless retailers restrict the places where people of color can shop, eat, and receive basic services. By refusing service to low-income communities without access to credit/debit cards, cashless establishments are able to carve out even more segregated niches in gentrified neighborhoods and exclude a substantial section of the population. In a city already rife with income and wealth disparities, no businesses should be permitted to promote a policy in which individuals with access to credit have more options and access to food and other city retailers.

The Council must not allow businesses to deny consumers due to their financial limits or preferences. Other states and cities have recognized the inherent discrimination of cashless policies and adopted legislation that prohibits their implementation. Massachusetts, Connecticut, New Jersey, New York, Oregon, Rhode Island, Chicago, Philadelphia and San Francisco have already passed legislation that requires retailers to accept cash payments. The District of Columbia needs to join this group in a rejection of policies that are, at their core, racist and anti-poor. Therefore, the Council must adopt the Cashless Retailers Prohibition Act of 2019 to require retailers to accept cash as a payment option, prohibiting further racial and socioeconomic discrimination within DC and affirming the right of *all* people to be consumers in the city.

My name is Charnay Jones and I am a law student at Georgetown University Law Center. Last semester I wrote a paper in a class with Professor Anne Fleming researching the effects of going cashless and analyzing the different laws in the United States that prohibit businesses from going cashless. I submit this testimony in support of the Cashless Retailers Prohibition Act, B23-0122.

Who This Bill Protects

If a person lives in a household where no one in that same household possesses a checking or savings account the Federal Deposit Insurance Corporation (FDIC) considers that person to be “unbanked.”¹ Unbanked individuals do not possess a debit card because debit cards draw funds for the payment of goods and services directly from the debit cardholder’s bank account.² According to the latest survey conducted by the FDIC in 2017, 6.5% of households in the United States, comprised of approximately 8.4 million United States households, were unbanked.³ This translates to approximately 14.1 million individuals ages sixteen and older who cannot use a debit card as a form of payment at a cashless store.⁴ However, this is likely an understated amount because the term unbanked looks at households in the United States, not individuals.⁵ As a result, these estimates do not account for individuals who live in a house with a resident who has a bank account, yet they do not have a checking or savings account in their name or do not reap the benefits from the bank account of the banked resident.⁶

Unbanked individuals are also much less likely to hold a credit card when compared to households where at least one member of the household has a checking account or savings account.⁷ Approximately 92.8% of unbanked households *do not* have a credit card.⁸ Therefore, if a household is unbanked, there is an increased chance that they will use cash as their form of

¹ Apaam, et al., *2017 FDIC National Survey of Unbanked and Underbanked Households*, FEDERAL DEPOSIT INSURANCE CORPORATION (Oct. 2018), <https://www.fdic.gov/householdsurvey/2017/2017report.pdf>.

² See *Using Debit Cards*, CONSUMER.GOV, <https://www.consumer.gov/articles/1004-using-debit-cards>; Apaam, et al., *2017 FDIC National Survey of Unbanked and Underbanked Households*, FEDERAL DEPOSIT INSURANCE CORPORATION (Oct. 2018), <https://www.fdic.gov/householdsurvey/2017/2017report.pdf>.

³ *2017 FDIC National Survey of Unbanked and Underbanked Households*, *supra* note 1.

⁴ See *2017 FDIC National Survey of Unbanked and Underbanked Households*, *supra* note 1.

⁵ *2017 FDIC National Survey of Unbanked and Underbanked Households*, *supra* note 1 at n.2.

⁶ *2017 FDIC National Survey of Unbanked and Underbanked Households*, *supra* note 1 at n.2.

⁷ See *2017 FDIC National Survey of Unbanked and Underbanked Households*, *supra* note 1 at 8-9 (Only approximately 7.2 percent of unbanked households possessed a credit card, whereas sixty percent of households that are underbanked, meaning at least one member of the household has a bank account but uses alternative financial services, had a credit card and 76.3 percent of fully banked households, meaning that a resident in the household has a bank account and does not use alternative financial products, had a credit card).

⁸ See *2017 FDIC National Survey of Unbanked and Underbanked Households*, *supra* note 1 at 8-9.

payment for transactions because they do not have a debit card and since only approximately 7.2% of unbanked households have a credit card.⁹

Additionally, Black and Hispanic households are more likely to not have a credit card or a debit card than White households. When classifying households by race, 16.9% of Black households are unbanked, 14% of Hispanic households are unbanked, 2.5% of Asian households are unbanked, and 3% of White households are unbanked.¹⁰ Therefore 16.9% of Black households and 14% of Hispanic households do not have a debit card, meaning no one in that household has a debit card in their name.¹¹ Similarly, approximately 52.1% of Black households do not have a credit card and 46.1% of Hispanic households do not have a credit card, whereas 24.7% of White households do not have a credit card.¹² Because Black and Hispanic households are less likely to hold a credit card and are also less likely to have a debit card (because they are unbanked) they are more likely to use cash a form of payment than White households.

Lower-income individuals are more likely to use cash and are less likely to have a credit card. Of households that make less than \$15,000, 31.3% have a credit card.¹³ This increases to 48.6% for households with incomes between \$15,000 - \$50,000.¹⁴ Comparatively, 77% of households with incomes between \$50,000 - \$75,000 per year hold a credit card and 88.8% of households with incomes over \$75,000 per year have a credit card.¹⁵

Cash is less frequently used as a form of payment as an individual's income rises. Individuals with incomes less than \$25,000 use cash for 47% of their payments, credit cards for 7% of their payments, debit cards for 27% of their payments, and the remaining 19% is composed of check, mobile, electronic and "other."¹⁶ Individuals in households with incomes between \$25,000 – \$49,999 use cash payments for 36% of their transactions, credit card payments for 13% of their transactions, and use debit cards as payment for 29% of their

⁹ See 2017 FDIC National Survey of Unbanked and Underbanked Households, *supra* note 1 at 8-9.

¹⁰ See 2017 FDIC National Survey of Unbanked and Underbanked Households, *supra* note 1 at 8-9.

¹¹ See 2017 FDIC National Survey of Unbanked and Underbanked Households, *supra* note 1 at 8-9. If a household is unbanked, no one in the household possesses a debit card because no one in the household has a bank account.

¹² See 2017 FDIC National Survey of Unbanked and Underbanked Households, *supra* note 1 at 8-9.

¹³ See 2017 FDIC National Survey of Unbanked and Underbanked Households, *supra* note 1 at 8-9.

¹⁴ See 2017 FDIC National Survey of Unbanked and Underbanked Households, *supra* note 1 at 8-9.

¹⁵ See 2017 FDIC National Survey of Unbanked and Underbanked Households, *supra* note 1 at 8-9.

¹⁶ Raynil Kumar, Tayeba Maktabi, and Shaun O'Brien, 2018 Findings from the Diary of Consumer Payment Choice, CASH PRODUCT OFFICE FEDERAL RESERVE SYSTEM (Nov. 1, 2018), <https://www.frbsf.org/cash/files/federal-reserve-cpo-2018-diary-of-consumer-payment-choice-110118.pdf> ('Electronic payment' means "bank account number payments, number payments, online banking bill pay, and payment services like PayPal. 'Other' payments include money orders, traveler's check, transfers, and direct deposit").

transactions.¹⁷ This is in contrast with individuals making \$100,000 or more, who use credit cards as their most common form of payment (23% for incomes \$100,000 – \$124,999 and 33% for incomes greater than \$125,000).¹⁸ Cash accounted for 24% of their transactions followed by debit card payments.¹⁹

The findings of a Pew Research study also support the notion that cash is less frequently used as a form of payment as an individual's income rises.²⁰ According to the study, 41% of surveyed individuals (not households) who make \$75,000 or more per year are likely to use cash for zero of their purchases in a typical week.²¹ Seven percent of these same individuals stated that they are likely to make "all or almost all" of their purchases using cash.²² In contrast, 18% of surveyed individuals who make less than \$30,000 stated that they are likely to make zero purchases with cash in a typical week and 29% of these same individuals stated that they are likely to make "all or almost all" of their purchases with cash.²³

When looking at the demographics that predominantly use cash among income groups, it is evident that by allowing stores to forego accepting cash we are disproportionately impacting the poor and racial minorities.

D.C. Should Join Other Jurisdictions in Banning Cashless Retailers

Across the United States, jurisdictions are implementing laws to protect these populations. Massachusetts has had a law in effect since 1978 banning retail establishments from not accepting cash as a form of payment.²⁴ In March 2019 New Jersey became the second state to ban retailers from not accepting cash.²⁵ In February 2019, Philadelphia's mayor signed a law prohibiting every person selling consumer goods or services at retail from not accepting cash as a

¹⁷ *See id.*

¹⁸ *See id.*

¹⁹ *See id.* (Debit card payments for incomes \$100,000 to \$124,999 accounted for 23% of their transactions and 21% for incomes greater than \$125,000).

²⁰ *See* Andrew Perrin, *More Americans are Making No Weekly Purchases with Cash*, PEW RESEARCH CENTER (Dec. 12, 2018), <https://www.pewresearch.org/fact-tank/2018/12/12/more-americans-are-making-no-weekly-purchases-with-cash/>.

²¹ *See id.*

²² *See id.*

²³ *See id.*

²⁴ MASS. GEN. LAWS ch. 225D, § 10A.

²⁵ Rebeca Ibarra, *New Jersey Bans Cashless Stores*, WNYC NEWS (Mar. 18, 2019), <https://www.wnyc.org/story/new-jersey-bans-cashless-retailers/>.

form of payment.²⁶ In May 2019 San Francisco instituted an ordinance requiring every brick and mortar business within San Francisco to accept cash as payment for the sale of any goods or services, other than professional services, if the customer is physically present at the brick and mortar business.²⁷ D.C. should join these jurisdictions in prohibiting retail establishments from refusing cash as a form of payment.

Conclusion

I strongly support the Cashless Retailers Prohibition Act.

²⁶ PHILA., BILL NO. 180943, <https://phila.legistar.com/LegislationDetail.aspx?ID=3710586&GUID=FD85947F-8151-4DB5-9949-AF6FEF14A9C9>.

²⁷ S.F., CAL., ORDINANCE No. 100-19 (2019), <https://sfgov.legistar.com/View.ashx?M=F&ID=7255924&GUID=2EE5FAC2-597B-4806-81FB-A3F1F398C0A9>.

**D.C. OFFICIAL CODE, TITLE 28. COMMERCIAL INSTRUMENTS AND
TRANSACTIONS. [ENACTED TITLE]**

54. Cashless Retail Prohibition.

* * *

D.C. OFFICIAL CODE § 28-3904, UNFAIR OR DECEPTIVE TRADE PRACTICES.

(ll) violate any provision of 17 DCMR § 3013; ~~or~~

(mm) violate any provision of 17 DCMR § 3117; or

(nn) violate any provision of Chapter 54 of this title.

* * *

**D.C. OFFICIAL CODE, TITLE 28. COMMERCIAL INSTRUMENTS AND
TRANSACTIONS. [ENACTED TITLE]**

CHAPTER 54. CASHLESS RETAIL PROHIBITION

28-5401. Definitions

28-5402. Prohibited practices

28-5403. Civil penalties

28-5404. Exceptions.

Section 28-5401. Definitions.

For purposes of this chapter, the term “retailer” means a person holding a basic business license who is engaged in retail sales.

Section 28-5402. Prohibited practices.

A retailer shall not discriminate against cash as a form of payment for goods or services, including by:

(a) Refusing to accept cash as a form of payment;

- (b) Posting signs on the premises that cash payment is not accepted; or**
- (c) Charge a higher price to consumers who pay cash.**

Section 28-5403. Civil penalties.

(a) Failure to comply with the requirements of this chapter shall be an unlawful trade practice under § 28-3904.

Sections 28-5404. Exceptions.

The provisions of this chapter shall not apply:

- (a) To retail sales made via mail, phone, or internet;**
- (b) Parking facilities that did not already accept cash as a form of payment as of December 1, 2020; or**
- (c) During a period of time for which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01).**

1 **DRAFT COMMITTEE PRINT**
2 **Committee of the Whole**
3 **December 1, 2020**

4
5
6
7 A BILL

8
9 23-122

10
11 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
12
13
14

15 To amend Title 28 of the District of Columbia Official Code to prohibit retail establishments
16 from discriminating against cash as a form of payment, and to provide for enforcement of
17 this requirement.

18
19 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
20 act may be cited as the “Cashless Retailers Prohibition Act of 2020”.

21 Sec. 2. Title 28 of the District of Columbia Official Code is amended as follows:

22 (a) The table of contents is amended by adding a new chapter designation to read as
23 follows:

24 “54. Cashless Retail Prohibition.”.

25 (b) Section 28-3904 is amended as follows:

26 (1) Subsection (ll) is amended by striking the phrase “; or” and inserting a
27 semicolon in its place.

28 (2) Subsection (mm) is amended by striking the period and inserting the phrase “;
29 or” in its place.

30 (3) A new subsection (nn) is added to read as follows:

31 “(nn) violate any provision of Chapter 54 of this title.”.

32 (c) A new Chapter 54 is added to read as follows:

33 “CHAPTER 54. CASHLESS RETAIL PROHIBITION

34 “28-5401. Definitions

35 “28-5402. Prohibited practices

36 “28-5403. Civil penalties

37 “28-5404. Exceptions

38 “§ 28-5401. Definitions.

39 “For purposes of this chapter:

40 (1) “Retailer” means a person holding a basic business license who is engaged in retail

41 sales.

42 (2) “Retail sales” means the sale of any tangible personal property or service to an

43 ultimate consumer.

44 “§ 28-5402. Prohibited practices.

45 “A retailer shall not discriminate against cash as a form of payment for goods or services,

46 including by:

47 “(1) Refusing to accept cash as a form of payment;

48 “(2) Posting signs on the premises that cash payment is not accepted; or

49 “(3) Charging a higher price to consumers who pay cash.

50 “§ 28-5403. Civil penalties.

51 “Failure to comply with the requirements of this chapter shall be an unlawful trade

52 practice under § 28-3904.

53 “§ 28-5404. Exceptions

54 “The provisions of this chapter shall not apply:

55 “(1) To retail sales made via mail, phone, or internet;

56 “(2) Parking facilities that do not already accept cash as a form of payment as of
57 December 1, 2020; or

58 “(3) During a period of time for which the Mayor has declared a public health
59 emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980,
60 effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01).”.

61 Sec. 3. Applicability.

62 (a) This act shall apply upon the date of inclusion of its fiscal effect in an approved
63 budget and financial plan.

64 (b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in
65 an approved budget and financial plan, and provide notice to the Budget Director of the Council
66 of the certification.

67 (c)(1) The Budget Director shall cause the notice of the certification to be published in
68 the District of Columbia Register.

69 (2) The date of publication of the notice of the certification shall not affect the
70 applicability of this act.

71 Sec. 4. Fiscal impact statement.

72 The Council adopts the fiscal impact statement in the committee report as the fiscal
73 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
74 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

75 Sec. 5. Effective date.

76 This act shall take effect following approval by the Mayor (or in the event of veto by the
77 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
78 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

79 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
80 Columbia Register.