

Cashless Retail Brings Benefits, Drawbacks And Backlash

By **Meegan Brooks and Douglas Kantor** (May 20, 2019, 3:01 PM EDT)

Cash is not king anymore — at least as compared to credit cards, online or smartphone payments, and cryptocurrency.

Numerous retailers, mostly restaurants, have explored cash-free models in recent years, including salad chain Sweetgreen, coffee chain Bluestone Lane and upscale restaurants such as Ludo Lefebvre's Petit Trois in Los Angeles and Danny Meyer's New York City restaurants.

On March 10, 2019, Mercedes-Benz Stadium in Atlanta became the first NFL stadium to go fully cashless (the stadium will make kiosks available for customers to convert cash to a prepaid debit card with no transaction fee). Amazon Gostores allow customers to pay without even using a physical credit card.

Going cash-free seems to have cachet. Sweetgreen has estimated that cashless transactions allow them to serve up to 15% more customers per hour. It may save employees time otherwise spent counting cash between shifts. Limiting the amount of cash on-site can help reduce robberies, thus thereby protecting employees and saving potentially stolen money.

At the same time, going cashless gives more control of a retailer's business over to the swipe fees and terms of the credit card industry. It may also come with increased chargebacks for fraud. Additionally, some argue that cashless stores discriminate against low-income consumers who do not have credit or debit cards, a large percentage of whom are racial minorities.

Earlier this month, Amazon said it would soon start accepting cash at more than 30 of its brick-and-mortar stores, including Amazon Go convenience stores and its book shops. Sweetgreen has similarly announced that it will begin accepting cash in all of its stores. And Shake Shack abandoned plans to open cashier-less locations after its first such store in Manhattan led to customer backlash.

Retailers should carefully weigh the costs and benefits of making the move to cashless — including the impact on customers if the retailer later decides to switch back to taking cash — before making the switch.

Current and Pending Legislation

In the face of the trend to cashless stores, numerous state and city governments have enacted or are considering legislation that would require businesses to accept cash:

- Massachusetts (enacted 1978): Massachusetts was the first state to pass a law requiring retailers to accept cash in 1978.



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- New Jersey (enacted March 19, 2019, took effect immediately): On March 19, 2019, New Jersey became the second state to ban cashless stores statewide. Retailers who fail to comply would face civil penalties of up to \$2,500 for a first offense and \$5,000 for a second offense.
- Philadelphia (takes effect July 1, 2019): Philadelphia's new law, enacted Feb. 27, 2019, prohibits most retail locations from refusing to accept cash or charging more to cash-paying customers. The Philadelphia law has several carve-outs, including for parking garages or lots; wholesale clubs that sell to consumers through a membership model; and rental-car companies or hotels where a credit-card deposit is often required for incidentals. The new law imposes fines of up to \$2,000 per violation.
- San Francisco (proposed Feb. 12, 2019): On May 7, 2019, San Francisco's Board of Supervisors unanimously approved legislation that will require brick-and-mortar businesses citywide to accept cash. This ordinance will become effective 30 days after enactment, which occurs when Mayor London Breed signs the ordinance, if she does not sign the ordinance, the Board of Supervisors is expected to override her veto. The ordinance will become operative 90 days after enactment.
- New York City (proposed Nov. 28, 2018): This legislation would prohibit retail establishments from refusing to accept payments in cash. If passed, the bill would impose fines of up to \$500 per violation.
- Washington, D.C. (proposed June 26, 2018): This ordinance would require retail food establishments to accept cash as a form of payment, and would prohibit such establishments from charging more or otherwise discriminating against customers who pay with cash.
- Chicago (proposed in 2017, died in committee): Alderman Edward Burke introduced legislation that would require businesses to accept cash, but it was held in committee.

These laws are motivated by concern that cashless stores discriminate against low-income customers who may not have bank accounts or credit cards. Accepting cash also promotes consumer privacy by allowing customers to make anonymous purchases.

In response to these arguments, proponents of cashless stores argue that the legislation above stifles innovation, and that retail is moving toward digital payment systems, whether or not everyone is able to use them. One critic has likened such legislation to putting a Band-Aid on a broken arm.

The Federal Reserve has started a Faster Payments Task Force, which has the potential to lead to real-time digital payments and do so in a way that is more inclusive of lower-income Americans. Until that type of solution comes to pass, however, going cashless may remain controversial.

Other Considerations

Retailers considering cashless stores should consider how they use cash on a daily basis, and how those practices will need to be adjusted under the cashless model. For example:

Gift Card Cash Back

At least a dozen states require retailers to provide cash back upon request where a gift card's balance drops below a certain threshold.

In California, for example, "any gift certificate with a cash value of less than ten dollars (\$10) is redeemable in cash for its cash value."^[1] Retailers should maintain enough cash onsite to provide cash for this limited purpose.

Recyclables

Cashless stores that sell beverages in recyclable containers should review state laws requiring cash redemption for plastic bottles and cans.

In California, for example, certain retailers not located near recycling centers must either provide cash to customers who bring in empty containers or pay CalRecycle a \$100/day opt-out fee.^[2]

Returns

Many retailers allow customers to return their merchandise across stores — regardless of where the customer made her original purchase. This presents complications where some, but not all, of a retailer's store locations are cashless.

If a customer purchases an item with cash at one store, and then tries to return that item at a different, cashless store, how will she be provided a refund? Retailers that do not provide cash refunds in cashless stores should make this restriction clear to consumers, and should avoid language such as "return the item to any of our stores."

Conclusion

The cashless trend is likely to continue, at least in some form. Retailers looking to become cashless now should closely consider how doing so could impact their business, compliance with the law and overall customer experience.

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[1] Cal. Civil Code § 1749.5.

[2] See Cal. Public Resources Code § 14571.6.