

Introduced by

Representatives B. Koppelman, Christensen, Kasper, Louser, Marschall, M. Nelson

Senators Clemens, Heitkamp, Meyer

1 A BILL for an Act to create and enact a new section to chapter 51-07 of the North Dakota
2 Century Code, relating to prohibiting a retail establishment from refusing to accept cash as
3 payment; and to provide a penalty.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 51-07 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Cashless retail prohibition - Discrimination against cash-paying customers**

8 **prohibited - Exceptions - Penalty.**

9 1. As used in this section:

10 a. "Cash" means any United States coin or currency used as legal tender. The term
11 does not include:

12 (1) Foreign currency or foreign metal coin; or

13 (2) Any paper instrument other than a federal reserve note, including any
14 check, bond, or promissory note.

15 b. "Retail establishment" means any business that operates at a fixed and physical
16 premises, has a permanent address within the state, and offers merchandise for
17 sale. The term does not include:

18 (1) A business without a physical premises;

19 (2) A business operating from a vehicle or other mobile space;

20 (3) A business operating from a temporary physical premises; or

21 (4) A charitable organization offering merchandise for sale at a charitable event
22 or for a charitable cause.

23 2. Except as otherwise provided in this section, a retail establishment may not:

- 1 a. Refuse to accept cash as payment for any merchandise offered for sale by the
2 retail establishment.
- 3 b. Require a customer to pay for merchandise offered for sale using a credit card,
4 debit card, charge card, or any other card-based payment.
- 5 c. Post signs on the premises stating cash payment is not accepted.
- 6 d. Charge a higher price for the same merchandise to a customer who uses cash as
7 payment than the customer would pay using any other form of payment.
- 8 3. A retail establishment may refuse to accept cash:
- 9 a. In any denomination larger than a twenty-dollar bill;
- 10 b. If the retail establishment reasonably suspects the cash to be counterfeit;
- 11 c. For any telephone, mail, mobile, catalog, or internet-based transaction, unless
12 the payment for the transaction takes place on the premises of the retail
13 establishment;
- 14 d. For a transaction at a wholesale club selling merchandise through a membership
15 model;
- 16 e. For transactions for the rental of merchandise or accommodations for which
17 posting of collateral or security is typically required; and
- 18 f. At a parking facility that accepts mobile payment, provided the facility does not
19 accept payment by any means other than mobile payment.
- 20 4. Notwithstanding any other provision of law:
- 21 a. If a complaint is made to the attorney general that a retail establishment is in
22 violation of this section, the attorney general may investigate the alleged
23 violation. To conduct an investigation, the attorney general may subpoena
24 witnesses, administer oaths, take testimony, and require the production of books
25 or other documents.
- 26 b. If, after investigating, the attorney general finds a retail establishment has
27 engaged in or is engaging in any practice declared to be unlawful by this section,
28 the attorney general may issue a cease and desist order and may impose by
29 order and collect a civil penalty against any retail establishment found in an
30 adjudicative proceeding to have violated this section. The attorney general may
31 bring an action in district court to recover penalties under this section.

- 1 c. A retail establishment violating this section is subject to a civil penalty not to
2 exceed two hundred fifty dollars for a first offense, and a civil penalty not to
3 exceed five hundred dollars for a subsequent offense.