The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 106

INTRODUCER: Appropriations Committee on Agriculture, Environment and General Government and Senator Jones

SUBJECT: Acceptance of Cash Payments by Businesses

DATE: February 26, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Baird	McKay	CM	**Favorable**
2.	Blizzard	Betta	AEG	**Fav/CS**
3.	Baird	Yeatman	FP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 106 requires any business that operates at a permanent or temporary physical premises, or from a vehicle or other mobile space, to accept an offer of payment in cash by a customer physically present. Cash is defined as the coin and currency of the United States. The bill also prohibits a business from charging a fee or placing a condition on its acceptance of cash, and gives rulemaking and enforcement authority to the Department of Agriculture and Consumer Services. Violations of the cash acceptance provisions will be subject to civil fines.

These provisions do not apply to:
- Sales that are not conducted in person;
- A parking facility owned by a municipality;
- A parking facility and commercial ground transportation operations owned or operated by an airport or seaport;
- A parking facility that accepts electronic funds transfers;
- A business providing services by specified professions;
- Sales in which the business suspects the use of counterfeit cash;
- The use of cash denominations higher than $20;
- Single transactions above $5,000;
- Secondary metals recyclers; and
- Continuous service or membership contract agreements.

The bill has an indeterminate fiscal impact on state revenues and expenditures. See Section V. Fiscal Impact Statement.

The bill has an effective date of July 1, 2024.

II. Present Situation:

There is no federal law that requires a private business to accept cash payments. States are within their rights to create laws regulating how businesses accept or reject payments.[1]

Currently, Florida has no law dictating whether a business must accept a cash payment or not. Some businesses in the state do not offer consumers the option of paying cash for transactions involving the purchase of goods and services.

With 85 percent of Americans having a smartphone, more purchases get made digitally than ever before.[2] Exacerbating the situation, the Covid-19 pandemic forced many businesses around the country to alter their business models to facilitate contactless purchases, where customers could order goods online and then have them picked up or delivered. This has all contributed to a decline in the use of cash.

Payment Instruments

Technology has allowed for consumers to make purchases with a variety of different payment instruments. Mobile wallets, which include credit or debit cards that are used through a smartphone, are projected to be used by 60 percent of the world's population by 2025.[3]

Recently, the Federal Reserve conducted a study that found credit card usage is the highest it has ever been.[4] Below is a table representing the percentage share of the various payment instruments used in 2022. [5]

[1] Board of Governors, Federal Reserve System*, Is It Legal for a Business in the United States to Refuse Cash as a Form of Payment?*, Fed. Reserve.gov, *available at* https://www.federalreserve.gov/faqs/currency_12772.htm, (last visited December 4, 2023).
[2] Pew Research Center, *2022: Internet, smartphone and social media use*, (December 6, 2022), *available at* https://www.pewresearch.org/global/2022/12/06/internet-smartphone-and-social-media-use-in-advanced-economies-2022/ (last visited December 4, 2023).

[3] Juniper Research, Boku, *Study: More than half of the world's population will use mobile wallets by 2025*, (July 8, 2021), *available at* https://www.globenewswire.com/en/news-release/2021/07/08/2259605/0/en/Study-More-than-half-of-the-world-s-population-will-use-mobile-wallets-by-2025.html, (last visited December 4, 2023).
[4] Cubides, Emily, and Shaun O'Brien. *2023 Findings from the Diary of Consumer Payment Choice*, (May 5, 2023), *available at* https://www.frbsf.org/cash/wp-content/uploads/sites/7/2023-Findings-from-the-Diary-of-Consumer-Payment-Choice.pdf (last visited December 4, 2023).
[5] *Id*. at 6.

Share of Payment Instrument Use for all Payments in 2022					
Cash	**Credit Card**	**Debit Card**	**ACH**	**Mobile Payment App**	**Other**
18%	31%	29%	13%	<1%	9%

However, the Bureau of Consumer Financial Protection estimated that 20 to 30 percent of adults in the United States do not have a credit card.[6] Adults without credit cards mostly rely on cash and debit cards. Consumers that do not have a bank account are more likely to use cash than consumers that do have a bank account.[7]

Other States

Within the last five years, there has been a trend of states passing legislation that requires businesses to accept cash payments. States that have passed similar acceptance of cash payments legislation include: Arizona, Colorado, Connecticut, Delaware, Idaho, Maine, Massachusetts, Michigan, New Jersey, New York, North Dakota, Oklahoma, Pennsylvania, Rhode Island and Tennessee.

The language in these state's laws vary, but they share the basic principal that most retail stores are required to accept cash as a form of payment. The states vary in penalties for violating. For instance in Massachusetts, violators of the statute may be fined or even imprisoned up to six months.[8]

The Department of Agriculture and Consumer Services

The Department of Agriculture and Consumer Services (DACS) is charged with protecting consumers from unsafe or defective products and deceptive business practices. The Division of Consumer Services (division) within the DACS regulates specific business activities, including commercial weight loss practices, telephone solicitations, dance studios, pawnshops, health studios, sellers of travel, and telemarketers. The division is also responsible for protecting consumers from unfair and unsafe business practices involving products, including petroleum products, brake fluid, antifreeze, lubricating oil, and weighing and measuring devices.

The Office of Agricultural Law Enforcement (OALE) enforces laws governing businesses regulated by the DACS. The OALE protects consumers from unfair and deceptive trade practices, protects Florida's agriculture industry from theft and other crimes, and safeguards the

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[6] This estimate is according to coverage of credit records present in the CCP sample, though this does not include authorized users, who are individuals designated by the primary account holder to use the same credit account. A recent report from the Federal Reserve finds 83 percent of consumers report having at least one credit card. *See* Bd. of Governors of Fed. Rsv. Sys., *Report on the Economic Well-Being of U.S. Households in 2020*, at 42 (May 2021), *available at* https://www.federalreserve.gov/publications/2021-economic-well-being-of-us-households-in-2020-banking-and-credit.htm, (last visited December 4, 2023).
[7] Consumers that do not have bank accounts made 66 percent of all payments with cash in 2022. *See*, note 5 *supra*.
[8] Mass. Gen. Laws Ann. Ch. 255D, § 30

wholesomeness of food and other consumer products.[9] The OALE currently partners with federal, state and local law enforcement agencies.[10]

III. Effect of Proposed Changes:

This bill requires that a business that operates at a fixed permanent physical premises, from a vehicle or other mobile space, or from a temporary physical premise, must accept an offer of payment in cash, defined as legal tender of the United States in the form of coins or currency, under the following conditions:

- The purchase is for a tangible good or service;
- The business would accept one or more other forms of payment; and
- The customer seeking to engage in the transaction is physically present at the place of business.

The bill authorizes a business to have an onsite cash-to-card kiosk available for customer use, into which the customer could deposit cash in exchange for a debit card loaded with the amount deposited that the customer could use for a transaction.

The bill prohibits a business from charging a fee or placing any other condition on its acceptance of a cash payment.

The requirement that cash must be accepted as a form of payment does not apply in the following circumstances:

- The sale is not conducted in person;
- The business is a parking facility that is owned by a municipality, regardless of who operates the facility, or if the parking facility accepts electronic funds transfers;
- The business is a parking facility and commercial ground transportation operations owned or operated by an airport or seaport;
- The business provides services by accountants, architects, attorneys, engineers, financial advisors, insurance agents, interior designers, software developers, or management and other consultants, not including services provided by licensed medical or allied health care practitioners;
- The business suspects the use of counterfeit cash;
- Bills greater than $20;
- Single transactions above $5,000;
- The business is a secondary metals recycler as defined in s. 538.18, F.S.; and
- The business provides continuous service or membership contract agreements.

A business that violates the requirement is subject to a civil penalty of up to $2,500 for the first offense, up to $5,000 for a second offense, and up to $10,000 for a third or subsequent offense. These violations are to be levied by the DACS based upon rules the DACS must implement.

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[9] Florida Department of Agriculture and Consumer Services, Office of Agricultural Law Enforcement, *available at* https://www.fdacs.gov/Divisions-Offices/Agricultural-Law-Enforcement, (last visited December 4, 2023).
[10] *Id*.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector impact is indeterminate. Businesses that have transitioned to cashless operations may incur costs associated with the handling and security of cash.

C. Government Sector Impact:

The DACS estimates additional resources may be needed to implement investigative and enforcement mechanisms required by the bill. It is unknown how many businesses will be impacted by the changes in the bill and how many complaints will be filed with the Division of Consumer Services and Office of Agricultural Law Enforcement. If the workload is greater than anticipated, additional resources may be requested in the future.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not clearly define what a “tangible good” or “service” is. Businesses and the DACS may need further clarity to determine if a business is required to accept the payment of cash for certain purchases.

VIII. Statutes Affected:

This bill creates section 559.96 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Appropriations Committee on Agriculture, Environment and General Government on January 17, 2024:
The committee substitute:
- Authorizes the use of cash-to-card kiosks to satisfy the requirement for businesses to accept cash.
- Clarifies that a parking facility and commercial ground transportation operations owned or operated by an airport or a seaport are exempt from the cash payment requirement.
- Exempts secondary metal recyclers and businesses that provide continuous service or membership contract agreements from the requirement to accept cash.

B. Amendments:

None.