

1/19/2021

HB 1299

Rep. Ben Koppelman- Testimony

Mr. Chairman and Members of the Committee, thank you for the opportunity to introduce HB 1299. I introduced this bill to ensure that all consumers maintain access to essential goods and services in the marketplace.

As you are aware, our economy has been making a transition away from cash and checks as being the preferred form of payment and toward a world where credit cards and digital wallets are becoming the norm. While there are many advantages and conveniences that go along with these options, potentially eliminating hard currency does have its concerns.

As many of you are aware, I am a pro-business and pro-industry legislator that is typically in favor of reducing regulation and removing government red-tape. However, I believe there is a time when some government regulation makes sense, and that is when its purpose is to protect freedom. Now you might look at this bill and say that it appears to take freedom away from businesses to choose the types of payment that they choose accept, and there is some truth in that. Some may also look at this bill and say it allows businesses to take away individual freedom by allowing businesses to not take cash in so many circumstances, and there is some truth in that also.

The key is that there are two traditional and fundamental conflicting freedoms here: an individual's ability to choose what form of payment to use and a businesses ability to choose what form of payment to accept. Government has had to wrestle with how to balance overlapping or conflicting interests before. A few examples are ADA accessibility, or not refusing service based on race or religion, or businesses having the right to refuse service. In each of these examples, the attempt is to balance fair access to services without being too overbearing on businesses.

As of now, I am not aware of many North Dakota businesses moving completely away from cash, therefore, I believe now is the time to address the issue of cash acceptance. This way, there is no burden placed on businesses to change their practices if this bill passes.

Section 31 of U.S.C. 5103 entitled "Legal Tender" states: "United States coins and currency are legal tender for all debts, public charges, taxes, and dues." However, according to the Federal Reserve Website, there is no federal statute mandating that a private business accept cash, but rather it is up to state law to determine such things, and rightfully so.

According to the FDIC, in 2017 there were 6.5% of households that did not have bank accounts. Among certain racial demographics it is even higher, with 14% of Latino households and 16.9% of African American households not having bank accounts.

Among our senior citizen population, there are many that prefer cash because they trust it much more than plastic. They lived much of their life in an era of using cash, having credit accounts being available at local stores, and writing checks, two of which are all but gone in the consumer spending market.

Our service industries rely on cash as a key component to their existence, and many of those employees rely equally on cash to buy the essentials for their lives.

Those who have bad credit or struggle with money management often use cash to stay out of credit card debt. In fact, many credit counselors recommend the cash-in-envelope approach to learning money management. Also, citizens returning to society from incarceration often use cash as their main form of tender until they reestablish their credit.

Then there is the trust factor for many. Some wonder if we go entirely to a digital currency, will government or private industry such as Google, Amazon, or Facebook be able to track and data-mine all aspects of their lives. As many of you know, data is the marketing currency for businesses in the 21<sup>st</sup> century, and because of its value, there are data breaches that happen all the time. Have any of you ever had your credit card account frozen because of suspected fraud? What if that was your only way to buy gas or groceries? Many are not comfortable with that scenario.

Some have said that consumers should just shop elsewhere if they don't like a business' no-cash policy. For now, this strategy might work in Fargo or Bismarck, but in many small towns, there is only one grocery store, gas station, café, or bar. If those businesses choose not to accept cash, there is not another alternative, especially if the individual does not have reliable transportation to another city.

This is why you have a bill before you that protects consumer access and choice in the marketplace for necessities and in-person transactions while balancing that interest with the 21<sup>st</sup> Century digital marketplace.

According to a survey by Square Inc., 83% of businesses said they would not ever stop accepting cash, and my guess is that most in North Dakota currently accept cash. HB 1299 allows numerous exceptions of when cash is not required to be accepted when not practical for businesses. I don't believe this is a burdensome regulation, but rather a preemptive protection against future limitations on freedom. It has been said that "Cash is King" and "Cash is the Great Equalizer", I hope we all value that concept and ensure that we don't lose our physical currency to the marketplace.

I respectfully request a Do-Pass from the Committee, and would be happy to answer any questions.