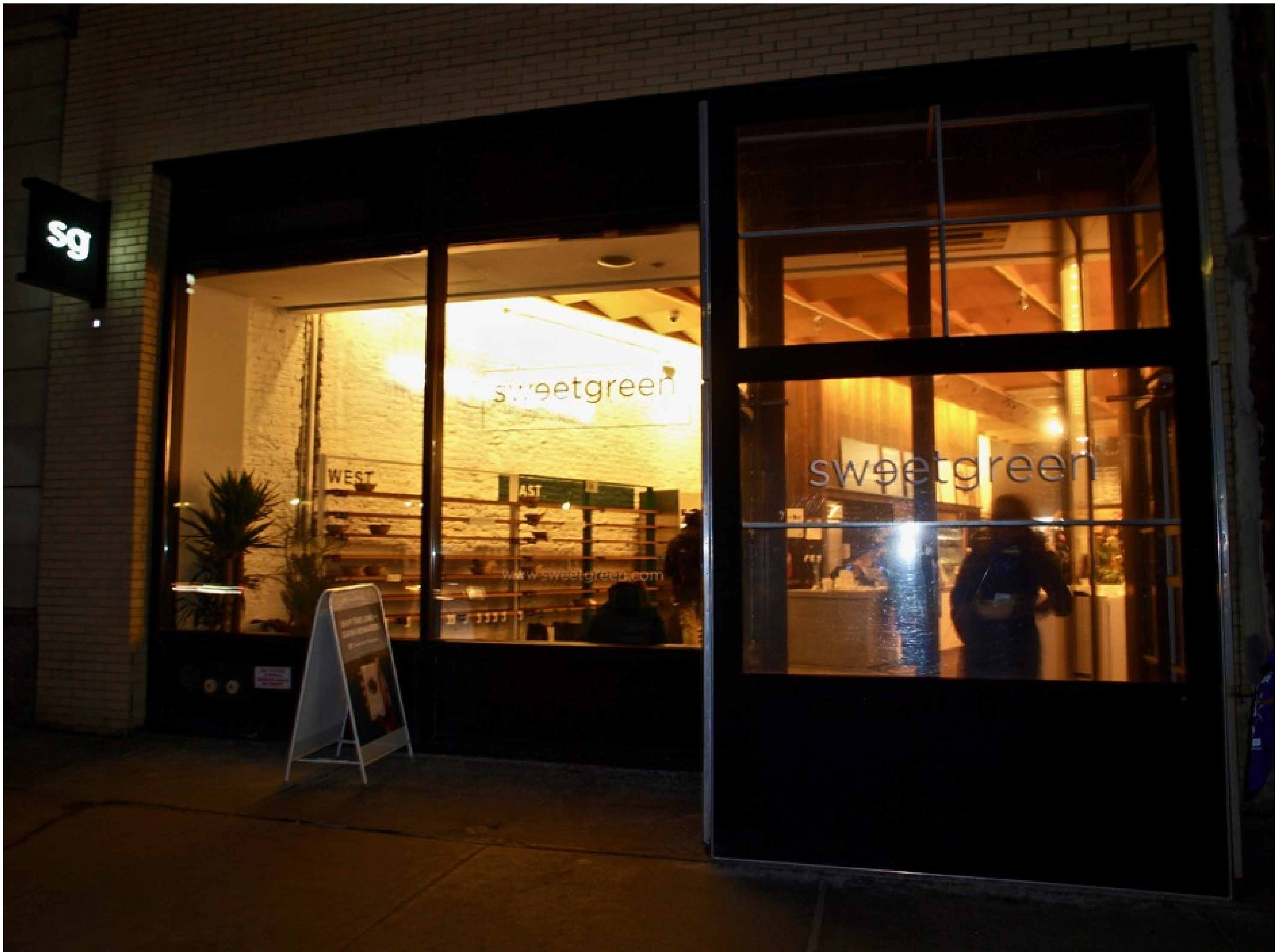


Philadelphia, San Francisco, and Washington in banning them.

In February, New York City Councilmember Ritchie Torres introduced legislation that would prohibit retail establishments from refusing to accept payments in cash. The council hasn't made a decision on the bill yet, but Torres is confident that it will pass by mid-year. If it does, cashless businesses could face fines of up to $500 for every violation.

The legislation protects consumer choice of payment, but the conversation surrounding the bill echoes that of many nationwide challenges to the movement toward a cashless economy: A cashless business discriminates against low-income people, and often they are people of color and undocumented immigrants.

In New York City, the majority of the nearly 12 percent of unbanked and 25 percent underbanked residents are people of color. Close to 17 percent of black New Yorkers and 14 percent of Latinx New Yorkers are unbanked, compared to just 3 percent of white New Yorkers. This policy brings a bigger question to life in New York: Considering the fact that the majority of New Yorkers without bank accounts are people of color, is closing off services to the unbanked racial discrimination?

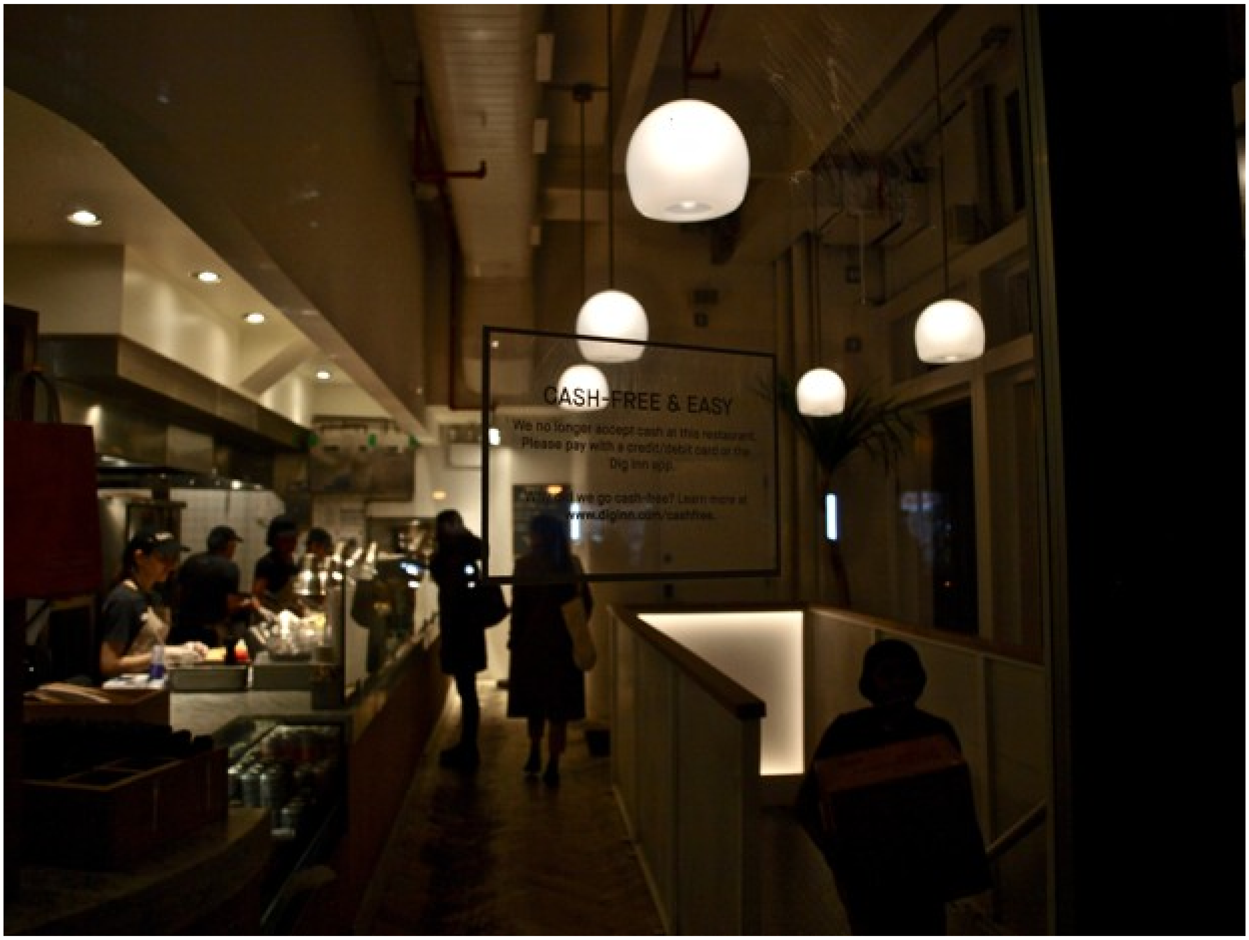
Recently, cities across the country have been issuing legislation to stymie the growing number of cashless businesses, and some locales have decades-old laws preventing cashless retail. Philadelphia just signed off on a law at the end of February, which goes into effect July 1, that would require shops to take cash, with fines up to $2,000. Also in February, both houses of New Jersey's state legislature passed a similar bill and are only awaiting the governor's signature. San Francisco has recently proposed a similar ordinance, and Washington D.C. and Chicago have also introduced legislation that would make it illegal to discriminate against cash as a form of payment. A Massachusetts law dating to 1978 says that retailers cannot "discriminate against a cash buyer by requiring the use of credit," and Pennsylvania's 1984 Cash Consumer Protection Act made it illegal for businesses to refuse services to people without credit cards.

Considering that the majority of New Yorkers without bank accounts are people of color, is closing off services to the unbanked racial discrimination?

The lawmakers behind these bills across the country are concerned that the cashless trend discriminates against low-income residents and people of color, as communities of color have higher percentages of unbanked: In California, 20.4 percent of black households and 14.6 percent of Latinx households are unbanked, and Philadelphia's rates are similar to New York's.

The federal Civil Rights Act mandates that all persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, and privileges, advantages, and accommodations of any place of public accommodation without discrimination or segregation on the ground of race, color, religion, or national origin.

A business can refuse service as long as their policies aren't purposely discriminating against a person's race, religion, sex, or national origin, which owners of cashless institutions would argue their policies aren't. A number of cities posit their laws as preventing discrimination against low-income people, but low-income people aren't a protected group.



A sign on the door of a Dig Inn dining and take-out establishment in New York City. (Rebecca Bellan/CityLab)

A capitalist economy breeds wealth discrimination: Many of the cashless institutions in NYC are not moderately priced. Theoretically anyone can buy a $12 salad at Sweetgreen, one of the cashless pioneers, yet can they really? But the resulting exclusion of New Yorkers of color and the undocumented, based on their lack of a bank account, still counts as discrimination, according to Marie Napoli, a lawyer and civil rights advocate.

However, Napoli said the ban on cashless likely wouldn't stand up in Supreme Court should one of the cash-free businesses choose to bring the issue to higher courts. "The clash between businesses' right to refuse service, and other compelling interests have resulted in allowing these forms of discrimination to continue," Napoli told CityLab.

Cash-free businesses generally cite increased efficiency, saving time and money by cutting out the need for armored cars to transport cash, and safety of their employees against the threat of robbery as reasons for adopting cashless policies.

“It saddens me that a decision made for the best interest of my employees could be misconstrued as classist or discriminatory,” said Michelle Gauthier, founder of quick-food restaurant Mulberry & Vine with five locations in New York, at the New York City Council hearing on February 14. Gauthier said her original reasoning behind going cashless was to protect employees and remove the burden of dealing with cash on a daily basis. She said she’s never turned away a customer for an inability to pay. “Many of my employees are the same people I’m supposedly discriminating against, yet they wholeheartedly agree with my decision to go cashless.”

“In the end, I think the need for equity outweighs the efficiency gains of a cashless business model. Human rights takes precedence over efficiency gains.”

At the same hearing, Leo Kremer, co-owner of Dos Toros Taqueria, testified that his business decided to go cashless for a host of reasons, including past robberies and his customers’ tendency to pay with plastic. Cash transactions, Kremer said, made up less than 10 percent of overall transactions. He said Dos Toros pays their employees $15 an hour, and provides benefits and room for growth. This has been easier to do, Kremer says, with the increased efficiency and self-sustainability resulting from going cashless. “For a business, running an efficient operation is the difference between staying open and shutting down.”

Yet Torres, whose Bronx city council district includes some of the New York’s poorest neighborhoods, said to CityLab that, “In the end, I think the need for equity outweighs the efficiency gains of a cashless business model. Human rights takes precedence over efficiency gains.”

“Cashless institutions encourage a FinTech Jim Crow by restricting the places where people of color can shop, eat, and receive basic services,” said Edgard Laborde, deputy political director of the Retail Wholesale Department Store Union (RWDSU), during his testimony. “By refusing to serve communities of color, cashless establishments carve out niches in gentrified neighborhoods through cash exclusion in an already unaffordable city.”

Poor and low-income New Yorkers face numerous barriers in accessing banking. The poorest neighborhoods of New York's five boroughs have the fewest bank branches in the city. Andy Collado, assistant director of services at The Financial Clinic in Sunset Park Brooklyn, an organization that helps the working poor navigate financial systems, said that there is only one bank branch operating in his neighborhood. And while technically the ID NYC card that can be issued to undocumented New Yorkers enables them to open a bank account, Collado said that most of his undocumented clients—about a third of the total clientele—are unaware of this information, and less than 30 percent of banks and credit unions in the city accept ID NYC as valid identification.

"Should we accept, as opponents of this bill do, that there are just some places where undocumented New Yorkers can't shop or buy food?" said Collado. Despite the fact that the undocumented don't have the same federal protections against discrimination as citizens do, Collado told CityLab that he thinks they should have the same rights, as our neighbors and fellow residents, when it comes to the operating of their lives. "We are a sanctuary city," he said in a phone interview. "We want to create the safest environment and one of freedom for whoever comes into this state."

Some might say that the cashless naysayers sound a bit apocalyptic. After all, not every business has gone cashless. There are other places to buy a salad or a cup of coffee, and at least one representative of a group that helps undocumented New Yorkers navigate financial hurdles said they haven't noticed complaints, but as it becomes more widespread that could change.

"I certainly don't think [this bill] is the right long-term solution. The future does not lie in this direction. The future lies in giving people free debit cards and financial inclusion."

How close are we to a cashless NYC really? To speculate on such a question, one could look to countries that are on the fast track to becoming cashless. In Sweden, bills and coins make up only 1 percent of the economy. Trends in the U.S. show a preference among Americans for plastic. A report from the Federal Reserve found that in 2017, debit and credit card payments made up 48 percent of transactions, with cash making up 30 percent. However, households that made under $25,000 annually used cash for more than half of their transactions.

"We are already where Sweden was five to seven years ago, and given another five to seven years, we will be where Sweden is now," said Kenneth Rogoff, a Harvard economics professor and author of *The Curse of Cash: How Large Denomination Bills Aid Crime and Tax Evasion Constrain Monetary Policy.*

"It seems to me there's a paradigm shift to a cashless business model," said Torres in a phone interview. "A company like Amazon could surely spread the model more widely, and Amazon is intent on opening more Amazon Go stores in major cities like New York. It might seem like it's at the margins at the moment, but the trend could spread a lot faster than people might think."

Yet, when it has served their interests, Amazon has figured out a way to sell even its online products to the unbanked as it does in Kenya, where it is pioneering a program to allow people without debit, charge, or credit cards to pay for its products at Western Union so that it can access the vast unbanked market there.

"I certainly don't think [this bill] is the right long-term solution," said Rogoff. "The future does not lie in this direction. The future lies in giving people free debit cards and financial inclusion." He cited the case of India. The country launched a program to decrease the number of unbanked and saw the percentage decrease from 47 percent of adults in 2014 to 20 percent unbanked in 2017 according to the World Bank Global Findex Report. "If India can manage to give people free debit cards, so can the U.S." Rogoff said.

Casey Adams, director of City Legislative Affairs for the NYC Department of Consumer Affairs, stressed that financial inclusion should be prioritized with unbanked and underbanked New Yorkers connected to safe and affordable financial products.

"For these New Yorkers, the financial challenges go further and deeper than an inability to use cash to purchase goods and services at retail establishments," he said.

About the Author

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FEED

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