

## New York City Department of Consumer Affairs

### Notice of Adoption

Notice of Adoption to add new rules to implement Local Law 34 of 2020 (LL 34), which prohibits food stores and retail establishments from refusing to accept payment in cash.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of Consumer Affairs by Sections 1043 and 2203(f) of the New York City Charter, Sections 20-104(b) and 20-702 of the New York City Administrative Code, and Section 2 of LL 34 of 2020, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Department of Consumer Affairs (“DCA” or “Department”) adds Subchapter R and Section 6-72 to Title 6 of the Rules of the City of New York.

This rule was proposed and published on June 30, 2020. A public hearing was held on August 3, 2020. After receiving and reviewing public comments, a change was made to the below statement of basis and purpose to clarify that the presumptions being added are rebuttable.

### Statement of Basis and Purpose of Rule

The Department is adding new rules to implement LL 34 of 2020, which prohibits food stores and retail establishments from refusing to accept payment in cash and further prohibits food stores and retail establishments from charging a higher price to consumers who pay for commodities with cash, rather than through a cashless transaction. The intent of LL 34 is to ensure that all New Yorkers, including those who are unbanked or underbanked, can make retail and food purchases using cash.

Specifically, these new rules add presumptions that a food store or retail establishment is in violation of the prohibition on cashless establishments if it displays a sign representing that it does not accept payment in cash from consumers, or if an employee or agent of such food store or retail establishment represents that it does not accept cash. These new rules also add presumptions that a food store or retail establishment is in violation of the prohibition on cashless establishments if it displays a sign representing that it charges a higher price for consumers who pay with cash rather than through a cashless transaction, or if any employee or agent of such food store or retail establishment represents that it charges a higher price to consumers who pay for commodities in cash. A business charged with violations can rebut these presumptions by presenting contrary evidence at a hearing.

These presumptions are necessary to allow the Department to effectively enforce the cashless establishments law. Without these presumptions, the Department would be required to conduct test purchases of commodities using cash to establish whether food stores or retail establishments are refusing to accept cash. Such test purchases are too costly and inefficient to perform.

These rules also add a penalty schedule for the new prohibitions on cashless establishments. The penalties are provided by section 20-840(d) of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

**Rule Amendment**

Section 1. Chapter 5 of Title 6 of the Rules of the City of New York is amended by adding a Subchapter R to read as follows:

**Subchapter R: Cashless Establishments**

**§ 5-280. Presumption of a Cashless Establishment.**

(a) There is a presumption that a food store or retail establishment is in violation of subdivision b of section 20-840 of the Administrative Code of the City of New York if such food store or retail establishment displays a sign representing that it refuses to accept payment in cash from consumers, or if any employee or agent of such food store or retail establishment represents that it refuses to accept payment in cash from consumers.

(b) There is a presumption that a food store or retail establishment is in violation of subdivision c of section 20-840 of the Administrative Code of the City of New York if such food store or retail establishment displays a sign representing that it charges a higher price for the same consumer commodity to a consumer who pays in cash than to a consumer who pays for such commodity through a cashless transaction, or if any employee or agent of such food store or retail establishment represents that it charges a higher price for the same consumer commodity to a consumer who pays in cash than to a consumer who pays for such commodity through a cashless transaction.

§ 2. Subchapter B of chapter 6 of title 6 of the Rules of the City of New York is amended by adding a new section 6-72 to read as follows:

**§ 6-72. Cashless Establishments Penalty Schedule.**

All citations are to Title 20 of the Administrative Code of the City of New York or Title 6 of the Rules of the City of New York.

Unless otherwise specified, the penalties set forth for each section of law or rule shall also apply to all subdivisions, paragraphs, subparagraphs, clauses, items, or any other provision contained therein. Each subdivision, paragraph, subparagraph, clause, item, or other provision charged in the Notice of Violation shall constitute a separate violation of the law or rule.

Unless otherwise specified by law, a second or third or subsequent violation means a violation by the same respondent, whether by pleading guilty, being found guilty in a decision, or entering into a settlement agreement for violating the same provision of law or rule, within two years of the prior violation(s).

<b><u>Citation</u></b>	<b><u>Violation Description</u></b>	<b><u>First Violation</u></b>	<b><u>First Default</u></b>	<b><u>Second Violation</u></b>	<b><u>Second Default</u></b>	<b><u>Third and Subsequent Violation</u></b>	<b><u>Third and Subsequent Default</u></b>
<u>Admin Code § 20-840</u>	<u>Violating the prohibitions on cashless establishments</u>	<u>\$750</u>	<u>\$1,000</u>	<u>\$1,350</u>	<u>\$1,500</u>	<u>\$1,500</u>	<u>\$1,500</u>
<u>6 RCNY</u>	<u>Violating the</u>	<u>\$750</u>	<u>\$1,000</u>	<u>\$1,350</u>	<u>\$1,500</u>	<u>\$1,500</u>	<u>\$1,500</u>

<u>§ 5-280</u>	<u>presumptions regarding cashless establishments</u>						
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