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Beginning in February, Businesses Grossing More Than \$50,000 Annually Must Offer Credit Card as Form of Payment

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A St. Croix restaurant/bakery emphatically states its cash-only policy. By. Ernice Gilbert, VIC

A Senator Kurt Vialet-sponsored bill that was signed into law by Governor Albert Bryan requiring businesses in the U.S. Virgin Islands grossing more than \$50,000 a year to offer credit card as a form of payment, will take effect on February 16, Mr. Vialet told the Consortium earlier this month.

The law exempts some businesses, including mobile vendors (those selling food at events), farmers certified with the Dept. of Agriculture, fishermen certified with the Dept. of Licensing and Consumer Affairs (D.L.C.A.), and businesses grossing less than \$50,000 annually. Taxi drivers are also exempt from this law as well; Mr. Vialet has [a separate, currently stalled](#) measure to address that sector.

The bill had received strong pushback from some members of the community and some lawmakers, who contended that no business should be forced to offer alternative forms of payment aside from cash.

But the senator during various hearings defended his legislation. "We have become a society that utilizes technology a real lot and for some reason we utilize technology in the confines of our home and when we go on a plane. But then we have different expectations here in the Virgin Islands. This bill would allow a number of entities to become competitive," Mr. Vialet said.

The senator also sees a boon for the Government of the Virgin Islands relative to the collection of taxes, as the Bureau of Internal Revenue (B.I.R.) currently has a difficult time determining how much money cash-only operations make — and therefore struggles with taxing these operations. "The bill goes on to provide certain transparency methods that can be utilized by the Bureau of Internal Revenue, including posting requirements (letting customers know that more than one form of payment is offered)... and receipts," Mr. Vialet said. "A number of jurisdictions do mandate that customers must receive a receipt, and this bill says [for] any purchase of over \$5 a customer must be given a receipt."

According to the law, businesses can impose a minimum purchase requirement of up to \$10. Businesses must also clearly display signs with methods of payment for customers to see. Additionally, businesses must keep a daily record of transactions, which shall be maintained for a minimum of 7 years and be made available to B.I.R. for inspection if the need arises.

The law also urges individuals who visit businesses after February 16 and notice that the businesses lack the credit card option, to file a complaint with D.L.C.A. The Dept. of Licensing and Consumer Affairs can perform unannounced site inspections to see whether businesses are complying with the new law. If businesses are not in compliance, they will receive a first penalty of \$1,000; for the second violation the penalty will be \$3,000, and for subsequent violations businesses will be fined \$5,000.

Some in the community have contended that the law runs afoul of the U.S. Constitution, in that it not only forces a business to take an action that this business should choose to offer, it also imposes fines for violations.

"There is no federal statute that would directly impede a state from enacting a law that mandates credit and debit card acceptance," said Myriam Gilles, a professor of law at Cardozo Law School in New York City, speaking to [CreditCards.com](https://www.creditcards.com).

Ms. Gilles, however, said that she would expect constitutional challenges if a state tried to mandate credit card payments. "Remember how the big Obamacare case turned into a debate over broccoli, which was mentioned 12 times in the decision?" Ms. Gilles asked. "To be sure, the issue there was whether Congress could mandate broccoli purchases (or insurance), and the question here concerns state law. But there has been much debate about whether states could enact this kind of mandate." In this case, the state would be forcing merchants to do business with the card networks. Ms. Gilles anticipates that merchants would protest this. "I imagine that objecting merchants would try to force the state to justify its law as a commercial speech restrictions, because the law abridges their rights to free association," Ms. Gilles wrote.

While businesses on the U.S. mainland would be at a great disadvantage by choosing not to offer credit card as a form of payment, local operations do not face the same consequence. The territory is small and many people still carry cash. Additionally, with ATMs situated throughout the territory, customers of certain operations can simply withdraw funds before making a purchase or picking up an order.

For many residents, however, the lack of credit card as a form of payment has served as a major reason not to visit certain businesses. Others see greater benefits to the law.

Tamara Johnson, commenting on the Consortium's Facebook platform when the law was still a bill going through the legislative process, bypassed the discussion on the new law's usefulness to customers. For her, it was about everyone paying their fair share of taxes.

"Finally businesses can be held accountable and pay their fair share of taxes that will help our schools, libraries, public services and police officers," [she said](#).