

NEW LAW,
SAME OLD LOANS:
PAYDAY LENDERS
SIDESTEP OHIO LAW

A REPORT FROM
POLICY MATTERS OHIO

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Executive Summary

Despite having one of the best-crafted payday lending laws in the nation, Ohioans are still paying triple-digit interest rates on payday loans. This report confirms initial findings that payday lenders in Ohio are deliberately circumventing the new Ohio Short-Term Loan Act, which among other protections instituted a maximum 28 percent annual interest rate on loans.

A payday loan is a short-term loan based on a post-dated check in anticipation of a person's next pay period. An origination fee and interest are added to the cost of a loan. For this report, Policy Matters Ohio visited and called 69 payday loan stores in Ohio to explore payday loan costs, terms, and conditions.

Despite contradictory and opaque information, which made analysis difficult, we found that every payday lender analyzed continues to charge triple-digit interest rates. The most common annual percentage rate (APR) quoted was 10 times the maximum allowable rate affirmed by Ohio voters last November. In addition to finding that pricing information was difficult to obtain, the survey found:

- All payday lenders surveyed continue to make loans due on the borrower's next payday, which is typically less than or equal to fourteen days away. This is not in compliance with the Short-Term Loan act, which guaranteed borrowers at least 30 days to pay back loans and established other consumer protections to keep borrowers out of the debt trap.
- Seven of the nine largest payday lenders issue the loan in the form of a check or money order and charge a cashing fee while another lender appears to be automatically including the fee and then issuing the loan in cash. By charging the borrower a 3 to 6 percent fee for cashing the lender's own out-of-state check (a check that presents no risk to the lender of insufficient funds), the cost of a \$200 loan can climb to higher than 600 percent APR.
- Most if not all payday lenders are making larger loans than permitted under either the short-term loan act or the old payday loan law. Online loans, brokered through stores, carry larger principles and are even more expensive.
- Seven of nine payday lenders surveyed accept unemployment, Social Security, or disability checks as collateral.

Despite passage of a bill that capped interest rates at 28 percent annually, stores continue to lend at triple-digit rates for loans due around a person's next pay period. In a 2008 analysis of payday lending stores in Ohio, Policy Matters Ohio and the Housing Research & Advocacy Center found more than 1,600 stores across the state (a fourteen-fold increase in just eleven years), most of which were charging an APR of 391 percent for a two-week loan.¹ Under previous Ohio law (Ohio Check-Cashing Lender Act), the costs of a loan were as follows:

Amount Borrowed	Origination Fee	Interest Charge	Total Amount Due	APR
\$100	\$10	\$5	\$115	391%
\$500	\$50	\$25	\$575	391%
\$800	\$72.50	\$40	\$912.50	367%

Source: Author's calculations based on previous Ohio law (Ohio Check-Cashing Lender Act)

Policy makers, consumer advocates, and the public, concerned about the degree to which payday loans perpetuate a cycle of short-term borrowing and debt, began exploring the issue more closely. Several studies indicated that borrowers often turn to additional payday loans to pay off existing debt and other payday loans.² Though the numbers varied, estimates were that Ohioans were borrowing from lenders eight to 13 times a year.³ An analysis of family budgets for Ohioans making between \$25,000 and \$45,000 found that borrowers would be hard-pressed to pay back the principle of the loan in two weeks, much less the total cost of the loan.⁴

Legislation known as HB 545, developed in the House Financial Institutions, Real Estate, and Securities Committee, created the Ohio Short-Term Loan Act and removed the section of the revised code that formerly allowed the traditional payday loan. Governor Strickland signed the law in June of 2008. A ballot initiative, almost exclusively funded by lending companies, attempted to overturn the interest rate provisions in the newly-passed law.⁵ Despite confusing language, by an overwhelming margin of 64 to 36 percent, voters opted to retain the provisions of HB 545. The new Ohio Short-Term Loan Act has the following provisions, among others:⁶

- An APR cap of 28 percent on fees and interest regardless of amount borrowed
- 31-day minimum term
- A cap of four loans per year.

¹ See David Rothstein and Jeffrey Dillman. *Policy Matters Ohio and Housing Research & Advocacy Center*, "The Continued Growth of Payday Lending in Ohio" (2008).

² Leslie Parrish and Uriah King. "Phantom Demand: Short-term due date generates repeat need for payday loans, accounting for 76% of total volume." *Center for Responsible Lending* (July 9, 2009). Paul Chessin "Borrowing from Peter to Pay Paul: A Statistical Analysis of Colorado's Deferred Deposit Loan Act," *Denver University Law Review* 83:2 (2005), and Michael A. Stegman and Robert Faris. "Payday Lending: A Business Model that Encourages Chronic Borrowing" *Economic Development Quarterly* (February, 2003).

³ Testimony of Darryl Dever of the Ohio Financial Services Association to Ohio Attorney General Marc Dann, p. 86. Testimony by Patricia Cirillo of Cypress Research Group to Ohio Attorney General Marc Dann, p. 183. Public Hearing on Payday Lending as Reported by Gordon Reporting, Inc.: December 6, 2007.

⁴ Rothstein and Dillman (2008), p. 10.

⁵ See Tyler Evilsizer. "Lenders Couldn't Buy Laws." *National Institute on Money in State Politics* (August 18, 2009) available at www.followthemoney.org.

⁶ Legislative Services Commission analysis of Ohio Short-Term Loan Act, 2008. Jim Siegel. "Strickland Signs Payday-Lending Bill," *Columbus Dispatch* (June 3, 2008).

- A maximum of \$500 borrowed at one time.

In March of 2009, the Housing Research & Advocacy Center and several newspaper reporters documented that only 19 payday lending stores were licensed under the newly-created Ohio law.⁷ Rather, stores were misusing two existing lending laws that allow companies to charge the same or more than before, by using fees intended for installment loans, but applying them to single payment two-week “payday” loans.⁸ Under these laws, companies could potentially charge 680 percent APR for a 14-day, \$100 loan, which was 24 times the rate passed under HB 545. The Ohio Mortgage Loan Act permits lenders to charge \$126.10 on a \$100 loan, an APR of 680 percent. This includes a “credit investigation fee,” which is discussed in greater detail below. The Ohio Small Loan Act allows lenders to charge \$116.24 on a \$100 loan, an APR of 423 percent. These charges do not include a check-cashing fee that is also sometimes charged. Under both acts, the APR changes on the amount borrowed and time period, but remains in triple digits for a 14-day term. Importantly, under both acts, lending above \$500 allows a \$30 origination fee rather than a \$15 origination fee.⁹ In exploring lending rates, testers for this study found that many lenders would not make loans at \$400 or \$500, but rather at \$501 or \$505, in order to make sure that the \$30 origination fee could kick in.

These previously-existing laws have allowed payday loans to continue to be issued in Ohio, under the kind of exploitative terms that lawmakers and voters tried to abolish. Instead of registering and operating under the new law, lenders have simply circumvented the Ohio legislation and begun operating under previously-existing laws intended for another purpose. Regarding transparency and cost, they may even have gotten worse. To better understand how payday lending functions in Ohio since the legislation, Policy Matters Ohio visited 19 and called 50 stores across the state of Ohio.¹⁰ Nine total companies were evaluated in this study. Testers made multiple visits and at least three phone calls to stores. Despite that, we found it difficult to obtain information on loan terms.¹¹ This report details and summarizes the findings of those inquiries about payday lending.

Loan costs:

Testers asked for \$200, \$300, \$400, and \$500 loans at payday stores. Testers reported being confused by clerk’s explanations of costs, fees, and interest on loans. When asked about the fees and interest rate on \$200 and \$500 loans, 24 of 69 stores told testers that only the computer system could calculate those figures. Check ‘N Go and Advance America often referred phone testers to their websites for online

⁷ Jeffrey Dillman, Samantha Hoover, and Carrie Pleasants. “The New Face of Payday Lending in Ohio,” *Housing Research & Advocacy Center* (March, 2009). Sheryl Harris, “Time for a true fix to payday problem,” *Cleveland Plain Dealer* (February 22, 2009); Bob Driehaus. “Lenders thwart Ohio Law intended to limit high interest on payday loans,” *New York Times* (April, 2009); Tom Suddes. “Payday-loan loopholes still wide open,” *Columbus Dispatch* (August 23, 2009); Marc Kovac, “Payday lenders finding loopholes,” *Ashland Times-Gazette* (February 23, 2009).”

⁸ An installment loan refers to a loan that is repaid over a specified period of time, where the interest and principle are divided up among that period. In this case, we are referring to a loan that has more than one installment, unlike payday loans.

⁹ Dillman, Hoover, and Pleasants. (March, 2009).

¹⁰ A full list of visited and called stores can be found in Appendix 1.

¹¹ Several stores (Ace Cash Express, Check ‘N Go, and CheckSmart) insisted that it was store policy not to give out rates over the phone while other stores (Cashland/Cash America and MoneyMart) told testers only the computer system could calculate the cost of the loan and rates of interest. This varied across chains and even among employees at stores.

payday loans, which cost more than in-store payday loans. In order to be able to charge higher fees, some stores did not offer loans at \$400 or \$500. When asked about a \$500 loan, our testers were often told that they would need to borrow \$501 or \$505.

On a \$200 and a \$500/\$501/\$505 loan, stores reported the following ranges of in-store costs.¹²

Store	Amount Borrowed	Total Costs	Total Amount Due	Annual Percentage Rate (APR) <i>Not including check cashing fee, unless otherwise noted</i>	Issued in Cash or Check/Money Order
Ace Cash Express	\$200	\$26.91	\$226.91	350.79%	Cash
	\$500	\$44.79	\$544.79	233.55%	
Advance America Check Advance	\$200	\$27.15	\$227.15	351.91%	Check, fee to cash from 3 to 5% of total amount.
	\$501	\$46.18	\$547.18	240.32%	
Cashland/Cash America	\$200	\$28	\$228	365%	Cash (check cashing fee included in total price and APR)
	\$500	\$45	\$545	234.64%	
Check Into Cash	\$200	\$17.30	\$217.30	225.52%	Check, fee to cash from 3 to 4%
	\$500	\$36.70	\$536.70	191.36%	
Check 'N Go	\$200	\$17.14	\$217.14	223.43%	Check, fee to cash from 4 to 5%
	\$505	\$35.42	\$540.42	182.86%	
CheckSmart ¹³	\$200	\$30	\$230	391.07%	Money order
	\$500	\$75	\$575	391.07%	
Money Mart	\$200	\$19.60	\$219.60	255.50%	Check, fee to cash about 6%
	N.A. ¹⁴				
National Cash Advantage	\$200	\$17.26	\$217.26	225%	Check, fee to cash from 3 to 5% or \$15 in some stores
	\$501	\$46.18	\$547.18	240.32%	
Rent-A-Center/Cash Advantage	\$200	\$26.92	\$226.92	350.92%	Cash
	\$500	\$44.79	\$544.79	233.55%	

Other stores reported an origination fee of \$15 and interest of 25 percent a day, but did not include the fees to cash the check or the \$10 credit check fee, which were revealed later. Several stores told testers to look up fees online, which is problematic because the fee schedules are different online than in the stores

¹² Many of the stores did not offer \$400 or \$500 loans on site but did offer them online.

¹³ CheckSmart stores would provide only an estimate of costs for the loan over the phone.

¹⁴ No Money Mart store would provide information on a loan in the \$500 range. Clerks insisted it was store policy not to disclose loan rates or terms over the phone or until the loan was processed.

(see the section below on “online lending”). Many stores initially told testers that fees and rates were not available over the phone and only after several calls would store employees give ballpark estimates of loan costs. Specifically, Money Mart and Cashland/Cash America said it was against store policy to provide rates or costs over the phone.

Terms and Conditions:

No store offered loans at more than two weeks maximum term, despite one store, Money Mart, advertising APR rates for a one-month loan. When asked by a tester what could be done if a borrower needed an extension or more time on the loan, no lender mentioned a payment plan option outlined by the Community Financial Services Association (CFSA) “best practices.”¹⁵ Several stores suggested purchasing an additional loan from another store or using an online loan source for repayment of the original loan.

Check issuing:

Many stores said they issue a check or money order rather than cash for a loan (see Table 2). Borrowers can cash the check at the store, their bank, or elsewhere. Borrowers often end up cashing the check in the store because banks would be unlikely to cash a check unless adequate funds are already in the bank account (in which case the borrower wouldn’t need the high-interest loan). Although the stores charge a fee and banks do not, if immediate cash is desired, the bank is not an option.¹⁶ At least two stores indicated the check was from an out of state bank. When checks were cashed in the store, the additional fee was not considered part of the loan and was not included in the APR. Further, extra fees to cash the check, which might otherwise be partially justifiable because of a risk that the check might bounce, are not warranted when a company is cashing its own check.

Online lending:

Many stores referred our testers to their websites for information and pricing on lending. This is problematic because online lending has a different fee and interest schedule than in a store. Online lending, even at a store chain’s website, is more expensive and is licensed differently than in-store lending. The payday lender acts as a broker for another lender and charges an additional fee for that service. The example below (Table 3) provides a description of the difference in loan costs for an in-store versus online transaction. Online stores also made loans up to \$1,500, nearly double what in-store lending offered.

¹⁵ See best practice number 11, http://www.cfsa.net/industry_best_practices.html.

¹⁶ Testers called Charter One Bank, KeyBank, and PNC bank and found that they don’t charge fees for account holders, but they will not cash a check if funds in the account wouldn’t cover it.

Store	Actual Lender	Loan	Total Loan Cost	APR	Increased cost compared to in-store loan ¹⁷
Advance America	CashNetUSA	\$200	\$252.40	683.07%	\$25.25
Cashland America	CashNetUSA	\$200	\$252.40	683.07%	\$24.40
Check 'N Go	NCP Finance Ohio, LLC	\$200	\$251.91	676.55%	\$34.77

Additional Ohio companies offer on-line payday loans but fees were not disclosed until after the application and loans were processed (Ace Cash Express, Check Into Cash, and Rent-A-Center).

Public Assistance and Unemployment:

Most payday companies – seven of the nine we surveyed – indicated that they would make loans based on an unemployment, disability, or social security check. Those who get these payments are some of the most vulnerable people in Ohio. When loans are taken against these benefits, less of the payment goes to the claimant.¹⁸ Further, much of the exorbitant cost charged by lenders is attributed to the risks associated with payday lending. Of course there is very little risk in lending against these programs – the primary risk is that the borrower is misrepresenting his eligibility. In our recommendations, we suggest that policy makers consider restricting the ability to take out loans against these publicly-issued checks, just as we do for paychecks issued by the military.

Store:	Types of Programs Allowed for a Payday Loan: ¹⁹
Ace Cash Express	Unemployment, Social Security, Disability
Advance America	Unemployment, Social Security, Disability
Cashland/Cash America	Unemployment, Social Security, Disability
Check Into Cash	Unemployment, Social Security, Disability
Check 'N Go	None
CheckSmart ²⁰	Social Security and Disability
Money Mart	Unemployment, Social Security, Disability
National Cash Advance	Unemployment, Social Security, Disability
Rent-A-Center/Cash Advantage	None

¹⁷ The difference in costs does not include potential in-store check cashing fees for Advance America and Check 'N Go.

¹⁸ Ellen E. Schultz and Theo Francis, "High-Interest Lenders Tap Elderly, Disabled," *The Wall Street Journal*, (February 12, 2008).

¹⁹ Most stores indicated that lending based on unemployment, Social Security, and disability depended on the amount in the award letter.

²⁰ Two CheckSmart stores indicated they did accept unemployment but the majority of stores said CheckSmart stores did not.

Summary of findings:

Our findings indicate that payday loans are similar to, if not worse than, before the legislative changes from 2008, because lenders are not operating under the new law. Stores are still selling high-cost, short-term, two-week loans.

Posted information and store employees' explanations still remain confusing and sometimes inaccurate. It is therefore difficult to understand fees, terms, and conditions. Some lenders will not disclose costs until after the loan is processed while others refer clients to online websites with different loan rates.

Recommendations:

Ohio should harmonize its small and short-term lending laws, reflecting the need and public desire for consistent and fair lending laws. The revised lending laws should require a minimum loan term of 90 days with no more than 28 percent APR, as suggested by the Federal Deposit Insurance Corporation (FDIC) guidelines on small loans.²¹ The process of charging to cash a payday loan check by the lender after the loan is made should be outlawed or at least reflected in the APR of the transaction. Finally, state and federal policymakers should carefully review whether public assistance programs should be allowed as income for payday loans.

²¹ See the FDIC's Financial Institution Letter FIL-50-2007, available at www.fdic.gov/news/news/financial/2007/fil07050a.html, for a discussion of affordable small loan guidelines. The FDIC suggests a 36 percent APR cap, however Ohio already passed a law with a 28 percent APR cap.

Appendix 1: Locations of payday loan stores visited and called	
Ace Cash Express 1409 E. 9th St., Cleveland, 44114	Check 'N Go 5365 Ridge Ave., Cincinnati, 45213
Ace Cash Express 2750 Van Aken Rd., Cleveland, 44120	Check 'N Go 9 91 Ashland Rd., Mansfield, 44905
Ace Cash Express 1933 Euclid Ave., Cleveland, 44103	Check 'N Go 4498 N Main St, Dayton, 45405
Ace Cash Express 14002 Triskett Rd., Cleveland, 44111	CheckSmart 1508 W 117 St., Cleveland, 44103
Ace Cash Express 2537 East 55 th , Cleveland, 44104	CheckSMart 6833 Broadway, Cleveland, 44105
Ace Cash Express 7310 Harvard Avenue, Cleveland, 44105	CheckSmart 2196 Brookpark Rd., Cleveland, 44134
Ace Cash Express 5498 Chester Avenue, Cleveland, 44103	CheckSmart 1731 Vernon Odom Blvd., Akron, 44320
Ace Cash Express 2723 S Arlington Rd., Akron, 44312	CheckSmart 1015 N High St., Columbus, 43201
Ace Cash Express 2516 Victory Pkwy, Cincinnati, 45206	CheckSmart 91 S Hamilton Rd., Columbus, 43213
Ace Cash Express 2167 South Taylor, University Heights, 44118	CheckSmart 6582 Glenway Ave., Cincinnati, 45211
Ace Cash Express 2290 Patterson Rd, Dayton, 45420	CheckSmart 4212 Linden Ave., Dayton, 45432
Ace Cash Express 5250 N Dixie Dr # B, Dayton, 45414	Money Mart 14333 Euclid Avenue, East Cleveland, 44112
Advance America Cash Advance 13708 Lorain Ave, Cleveland, 44111	Money Mart 14201 Kinsman Rd., Cleveland, 44120
Advance America Cash Advance 6750 Biddulph Rd., Cleveland, 44114	Money Mart 7311 Brookpark Rd., Parma, 44129
Advance America Cash Advance 1684 W Market Street, Akron, 44313	Money Mart 1400 S Arlington St # 4, Akron, 44306
Advance America Cash Advance 2086 Romig Rd # 1A, Akron, 44320	National Cash Advance 5194 Pearl Rd., Cleveland, 44129
Advance America Cash Advance 3296 S High St, Columbus, 44207	National Cash Advance 1400 S Arlington St # 172, Akron, 44306.
Advance America Cash Advance 3371 Cleveland Ave, Columbus 43224	National Cash Advance 1387 S Hamilton Rd., Columbus, 43227
Advance America Cash Advance 6173 Glenway Ave # A, Cincinnati, 45211	National Cash Advance 5098 Glencrossing Way # C, Cincinnati, 45238
Advance America Cash Advance 451 Ohio Pike # C, Cincinnati, 45255	National Cash Advance 612 Claremont Ave., Ashland, 44805
Advance America Cash Advance 3813 Center Rd., Brunswick, 44212	National Cash Advance 1153 Park Ave W., Mansfield, 44906
Advance America Cash Advance 25 Amberwood Pkwy., Ashland, 44805	National Cash Advance 1515 S Byrne Rd # 102, Toledo, 43614
Advance America Cash Advance 313 N Lexington Springmill Rd., Mansfield, 44906	National Cash Advance 1744 W Laskey Rd., Toledo, 43613
Advance America Cash Advance 3896 N Dixie Dr., Dayton, 45414	Rent-A-Center/Cash Advantedge 13711 Lorain Ave., Cleveland, 44111
Advance America Cash Advance 5143 Salem Ave., Trotwood, 45426	Rent-A-Center/Cash Advantedge 5166 Pearl Rd., Cleveland, 44129
Advance America Cash Advance 529 Dorr St., Toledo, 43604	

Advance America Cash Advance 1042 W Alexis Rd., Toledo, 43612
Cashland/Cash America 410 S Elmwood Ave., Medina, 44256
Cashland/Cash America 871 Ashland Rd., Mansfield, 44905
Cashland/Cash America 5140 Salem Ave., Dayton, 45426
Check Into Cash 2473 E. Dublin-Granville (State Rd. #161), Columbus, 43229
Check Into Cash 2117 Eakin Road, Columbus, 43223
Check Into Cash 8315 Beechmont Ave., Suite 19, Cincinnati, 45255
Check into Cash 137 W. Kemper Road #900, Springdale, 45246
Check Into Cash 580 Park Ave W., Mansfield, 44906
Check Into Cash 170 Woodman Drive, Dayton, 45431
Check Into Cash 3283 W. Siebenthaler Ave., Suite 6, Dayton, 45406
Check Into Cash 4925 Jackman Road, Toledo, 43613
Check Into Cash 3362 Glendale Ave., Toledo, 43614
Check 'N Go 8043 Euclid Ave, Cleveland, 44115
Check 'N Go 4660 Ridge Rd., Cleveland, 44114
Check 'N Go 1902 Buchholzer Blvd., Akron, 44310
Check 'N Go 1947 E Dublin Granville Rd, Columbus, 43229
Check 'N Go 6212 Glenway Ave # A, Cincinnati, 45211

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