CONCURRENCE IN SENATE AMENDMENTS
AB 1793 (Ward and Rogers)
As Amended August 11, 2026
Majority vote

SUMMARY

This bill would address the penny shortage by requiring a merchant, for a transaction paid with cash, to determine the total price of goods or services by rounding to the nearest amount divisible by five, as specified.

Senate Amendments

1) Defines "installment payments" to mean a sum of money due as one of multiple payments over a period of time pursuant to a contract of sale entered into by and between the merchant and the purchaser.

2) Defines "legal tender" to mean all metal coins and paper currencies of the United States.

3) Narrows scope to services at physical locations in the state.

4) Adds the definition of "person" to include any individual, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, or any other group or combination acting as a unit. Explicitly excludes: the state, any county, city and county, municipality, district, or other political subdivision of the state.

5) Specifies "Total transaction price" means either of the following:

   a. The total amount of consideration received by the merchant for the sale of goods or services in a single transaction, including any applicable taxes, fees, or surcharges, or tax, fee, or surcharge reimbursement.

   b. An installment payment made in a single transaction.

6) Specifies guidelines for refunding payments made in cash or combination of cash and non-cash.

7) Provides the California Department of Tax and Fee Administration regulation authority.

8) Specifies an operative date of July 1, 2027.

9) Clarifies any rounding adjustment to be disregarded when computing an applicable tax, fee, surcharge, related reimbursement, or the measure of that tax, fee, surcharge, or reimbursement.

COMMENTS

1) Background

On November 12, 2025, the United States Mint ended production of the penny citing a significant increase in cost of production.[1] Approximately 114 billion pennies remain in circulation, and its status as legal tender will remain intact.[2] The U.S. Treasury recommends that merchants adapt to the dropping supply of pennies by round transactions up or down to the nearest five cents. Recent guidance from the National Conference of State Legislators (NCSL) states: "The most recommended form of rounding is symmetrical rounding whereby if the final digit of the total transaction amount (including taxes) is 1, 2, 6, or 7 cents, the amount is rounded down to the nearest multiple of five. If the final digit is 3, 4, 8, or 9 cents, the amount is rounded up. Transactions totaling exactly $0.01 or $0.02 might be rounded up to $0.05. Rounding rules would not apply to payments made via electronic methods, checks, gift cards, or other non-cash instruments."[3]

2) Federal Efforts

On April 29, 2025, H.R. 3074, the "Common Cents Act", was introduced at the federal policy level. This bill would direct the secretary of the Treasury to cease production of one-cent coins for general circulation, while allowing continued production for numismatic (collector) purposes, provided sales cover production costs. When initially introduced, Section 3 of the bill contained a provision mandating rounding. However, after consideration by the House Financial Services Committee, it was amended, and Section 3 was deleted.

3) Penny Shortages

The Retail Industry Leader Association (RILA) conducted a survey in November of 2025 finding that "[o]f the 25 companies surveyed, nearly one-quarter indicated that more than 1,000 of their store locations are currently without pennies. Two-thirds of respondents said they are rounding transactions to the benefit of consumers when pennies are unavailable — a practice that, while fair to shoppers, is costing businesses millions of dollars as small amounts add up across thousands of daily cash transactions."[4]

4) Litigation Risks

The NCSL's exploration into this topic includes in-depth consideration of potential legal risks.[5] The three risks NCSL's State and Local Taxation (SALT) Task Force identified are: 1) a potential violation of the federal Internet Tax Freedom Act (ITFA) to a certain extent; 2) "whistleblower" lawsuits state false claims acts against sellers for under-collection of sales tax from cash purchasers; and 3) class action lawsuits against sellers for over-collection of sales tax.

First, ITFA prohibits states, via the U.S. Constitution's Supremacy Clause, from imposing "discriminatory taxes." The prohibition on discriminatory taxes states that: "No State or political

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[1] *Penny Production Cessation FAQs* https://home.treasury.gov/news/featured-stories/penny-production-cessation-faqs. Last visited 2/23/26 "Over the past 10 years, the total production cost of the penny has risen from 1.3 cents to 3.69 cents per penny. These production costs include materials, facilities, and overhead."
[2] *Id.*
[3] *Id.* citing *Elimination of the Penny: Cents-able Considerations* (2025).
[4] *Retailers Face Penny Shortages, Call for Federal Action* (2025).
[5] Livingston, J. (2025) "Elimination of the Penny: Cents-able Considerations" A policy brief from the NCSL State and Local Taxation (SALT) Task Force. https://www.ncsl.org/fiscal/elimination-of-the-penny-cents-able-considerations. Last visited 3/2/2026.

subdivision thereof may impose . . . discriminatory taxes on electronic commerce." "Electronic commerce" means "any transaction conducted over the Internet or through internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration." While a "discriminatory tax" means a tax imposed on electronic commerce that is not generally imposed "on transactions involving similar property, goods, services, or information accomplished through other means[.]"

In this regard, the ITFA is potentially implicated when a state institutes a rounding rule—irrespective of the specific methodology—for cash payments that diverges from the rounding protocols applicable to electronic commerce. The SALT study estimates the likelihood that an ITFA challenge would succeed is unlikely:

1) "Cash payments are not "similar" to electronic payments as the payment methods differ in terms of security, recordkeeping, acceptance and, importantly, the need to provide "change" to the purchaser."

2) "The rounding rule that applies to non-cash payments is the same, whether "online" point-of-sale systems (which are processed via access the public Internet) or "offline" or "one-premise”" point-of-sale systems (which are processed via access to private networks or without the need for constant Internet connectivity). These point-of-sale systems are "similar" for ITFA purposes because they offer comparable security, recordkeeping and acceptance of such payments, as well as the lack of any requirement to provide change to a purchaser. "

3) "Should rounding be mandated by federal law, such a statute would have to be read in harmony with ITFA. Consequently, enactment of federal rounding legislation makes a successful ITFA claim almost non-existent."[6]

Second, litigation risks for under-collection of the sales tax in certain states, like California, that permit *qui tam* suits in tax matters. In a *qui tam* action for state tax under-collection, a private party (a "relator") brings a lawsuit on the state government's behalf to assist in recovering funds that have not been properly paid to the government. "Said private party may assert that a company's tax collection practices or failure to collect the correct amount of tax has resulted in the state being defrauded. "Such a suit likely would be dismissed if the seller correctly applies the statutory or regulatory rounding rule because that action would not meet the "falsity" requirement under a typical false claims act. That is, *compliance* with duly enacted state law is a defense to improper under-collection of taxes because there would be no legally "false" action by the seller."[7]

Finally, similar to the second, in a class action, which is brought by consumers on behalf of a group for over-collection of tax, if a company correctly applies a state's rounding rule, a class action suit against the seller would likely fail. "In such cases where a class action plaintiff, i.e., a representative purchaser, files suit for over-collected tax, sellers have a number of defenses to class actions, including but not limited to: (i) "certification" of the class, where the plaintiffs must generally meet numerosity, commonality, typicality, representation, and predominance (all legal terms of art beyond the scope of this summary); (ii) lack of a private cause of action that

[6] Livingston, J. (2025) at 10.
[7] *Id.*

underlies the suit; (iii) requirement to arbitrate under the seller's terms and conditions or contract, acknowledged or executed by the purchaser; and (iv) the voluntary payment doctrine."[8]

5) Concerns for cash-required cities

Inclusion and accessibility were the primary motivators for cash inclusion ordinances. "For many City residents, such as those unable to obtain bank accounts, the ability to engage in consumer transactions, including goods and services vital to health and safety, depends on the ability to pay with legal cash tender established by the federal government of [the] United States."[9] Some retailers have raised concerns that rounding up may be considered a fee or penalty for the use of cash in cash-required cities because the use of credit card or other payments would result in exact payment. In both cities, the ordinances prohibit businesses from charging a fee or penalty for the use of cash or placing other conditions for the acceptance of cash. These provisions are intended to prevent businesses from steering customers to using one payment method over another. However, no business has imposed any fee, penalty or condition for the use of a different payment method when it is simply complying with the law, particularly where the law contemplates a balancing by rounding up and down based on a specific ending amount. Still, the author has taken a cautionary step to add further clarifying language to the bill that ensures no merchant acting in compliance with this bill is in violation of any state law or local ordinance.

6) Consideration for Point-of-Sale System Implementation

The cessation of penny production necessitates significant technical modifications to existing Point of Sale (POS) infrastructure. Implementation of the proposed rounding mandate requires comprehensive adjustments to cash acceptance and reporting systems to facilitate the requisite protocols for transactions involving legal tender. Such efforts include the design of systems capable of differentiating between cash-based and electronic demand instruments, while mitigating operational risks and ensuring seamless integration with statutory tax reporting and payroll accounting systems.

According to the Author
AB 1793—the California Common Cents Act—provides critical legal clarity on the rounding of cash transactions to the nearest nickel following the end of penny production in 2025. Penny shortages have already caused confusion and inconsistency at the cash register, leading twenty states to pass symmetrical rounding legislation. By legalizing symmetrical rounding on the post-tax total transaction price, AB 1793 provides clear guidelines for businesses and discourages strategic pricing against cash consumers. Credit, debit, and electronic transactions will remain unaffected. In the absence of federal guidance, it is up to the California State Legislature to ensure a smooth and transparent adoption of cash rounding.

Arguments in Support
"AB 1793 provides clarity for California restaurants and their guests by providing a standardized, symmetrical framework for rounding that ensures uniformity across transactions. Since the U.S. Mint halted penny production earlier this year, the restaurant community has faced some challenges providing exact change to cash-paying customers. With Federal Reserve terminals having ceased fulfilling penny orders and deposits, many have been left with no

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[8] *Id.*
[9] The city of Berkeley's ordinance number 7,681-N.S. (a)

reliable way to access pennies. As a result, restaurant owners & operators have been left with few options as they navigate an inconsistent patchwork of laws governing payments and financial transactions.

The shortage also creates confusion for customers at checkout, leading to friction and frustration that can taint their experience and potentially harm a restaurant's relationship with its guests.

More than one in four transactions across the restaurant industry are paid in cash. When there is no clear framework for rounding, it leads to situations that can undermine customer trust and hospitality – key drivers of repeat business. Many restaurants are currently rounding down total transaction costs to the nearest nickel when exact change isn't available out of fear of litigation. However, prolonged rounding could end up causing harm to this same community – one that survives on razor-thin economic margins.

AB 1793 addresses this crucial issue by ensuring restaurants can serve customers without unnecessary financial and legal risk."—California Restaurant Association

Arguments in Opposition

"…One important argument remains that I have not seen made about this decision to remove the penny and round up or down to five. That argument is that it is not honest. It is not accurate book keeping. It will create dishonest ledgers of exchange. People will feel cheated on either side of the transactions.

How will the legislature or the franchise tax board deal with this inconsistency? How will this effect local tax collectors who will have to deal with this inaccurate reporting. Of all the issues the state has taken the current Federal Executive branch to court on, I wish this was one of those issues. Although it may seem trite, this by far effects more people than any of the decisions the executive branch has made so far.

While I urge this committee to reject this proposal, there is a strong possibility it will be voted on party lines and may even have bi-partisan support in this committee. If it is the wisdom of the legislature to pass this bill, I would request that it not go into effect until the latest possible date.

We will have a new president come January 20, 2029. Whoever this new president may be, they may agree with the reasons the United States should continue it's coinage of the US penny and have the Secretary of the Treasury resume striking. With that being a possibility, I ask that this bill impose a sunset date included in this legislation so that we can easily go back to honest transactions. I propose the date of June 30, 2029. A year into the new administration will be plenty of time for the new administration to decide if they would like to start striking penny's (*sic*) again. If not the legislature could renew the legislation in the 2029 legislative session."--*SFV Alliance*

FISCAL COMMENTS

No fiscal analysis of the amendments have been made. The following is a relevant excerpt from the analysis of the Assembly Committee on Appropriations.

No impact to local or state tax, fee, or surcharge collections paid with legal tender, as this bill does not include a government entity as a "merchant." However, this bill may impact the computation of income and allow a gross income exclusion under the Personal Income Tax or Corporation Tax Law, which may have GF revenue impact to the state of an unknown amount.

VOTES:

ASM BANKING AND FINANCE: 9-0-0
YES: Valencia, Chen, Dixon, Fong, Krell, Michelle Rodriguez, Blanca Rubio, Schiavo, Soria

ASM APPROPRIATIONS: 11-0-4
YES: Wicks, Aguiar-Curry, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache
ABS, ABST OR NV: Hoover, Dixon, Ta, Tangipa

ASSEMBLY FLOOR: 62-1-17
YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Davies, Elhawary, Fong, Gipson, Jeff Gonzalez, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Johnson, Kalra, Krell, Lee, Lowenthal, McKinnor, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas
NO: DeMaio
ABS, ABST OR NV: Arambula, Castillo, Chen, Dixon, Ellis, Flora, Gabriel, Gallagher, Garcia, Hadwick, Hoover, Lackey, Macedo, Muratsuchi, Ramos, Celeste Rodriguez, Ta

SENATE FLOOR: 30-5-5
YES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Durazo, Gonzalez, Grayson, Grove, Hurtado, Laird, Limón, McGuire, McNerney, Menjivar, Pérez, Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Valladares, Wahab, Weber Pierson, Wiener
NO: Alvarado-Gil, Dahle, Niello, Ochoa Bogh, Strickland
ABS, ABST OR NV: Choi, Jones, Padilla, Reyes, Seyarto

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