

HOUSE BILL 224

By Sparks

AN ACT to amend Tennessee Code Annotated, Title 71,  
Chapter 3, relative to the direct cash assistance  
for certain transactions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 3, is amended by adding  
the following language as a new, appropriately designated part::

71-3-1101.

(a) As used in this part, unless the context otherwise requires:

(1) "Direct cash assistance" means any manner of cash assistance  
provided by the United States department of health and human services  
including electronic benefit cards and temporary aid for needy families (TANF),  
wherein the assistance is provided directly to the recipient, rather than a vendor;

(2) "Electronic benefit transfer (EBT) card" means a card that provides  
benefits through an electronic benefit transfer;

(3) "Electronic benefit transfer transaction" means the use of a credit or  
debit card service, automated teller machine, point-of-sale terminal or access to  
an online system for the withdrawal of funds or the processing of a payment for  
merchandise or a service;

(4) "Food stamp benefits" means benefits issued pursuant to the federal  
Food and Nutrition Act of 2008, 7 U.S.C. §§ 2011 to 2029, inclusive, as  
amended, including such benefits contained on an electronic benefit transfer  
card; and

(5) "Vacation services" means the furnishing of interstate or foreign travel services solely for the purpose of recreation, including transportation, lodging and travel agent services. Provided, that vacation services shall not include travel related to:

- (A) A personal or family emergency;
- (B) The death of a family member;
- (C) Employment;
- (D) Medical treatment;
- (E) An appearance before a court of law;
- (F) Court-authorized parental visitation; or
- (G) Such other categories of travel which may be designated by the department as non-recreational travel.

(b) No store owner or store clerk shall knowingly use or accept direct cash assistance funds held on EBT cards or use EBT cards through access devices for the purchase or sale of the following services or products or in the following establishments:

- (1) Adult cabarets as defined in title 7, chapter 51, part 11;
- (2) Alcoholic beverages as defined in title 57;
- (3) Barbering as defined in § 62-3-105;
- (4) Beer as defined in § 57-5-101(b);
- (5) Cosmetology shops, manicure shops, and skin care shops as defined in § 62-4-102;
- (6) Firearms or ammunition;
- (7) Jewelry;
- (8) Lottery tickets;
- (9) Payment of any fees, fines, bail or bail bonds ordered by a court;
- (10) Stores that offer rental-purchase agreements as defined in title 47, chapter 18, part 6;

(11) Tattoos or body piercings as defined in title 62, chapter 38;

(12) Tobacco products as defined in § 67-4-1001(20); or

(13) Vacation services.

(c) A recipient of direct cash assistance who knowingly makes a prohibited purchase in violation of this part shall reimburse the department for such purchase and, for a second offense within three (3) years of the first offense, shall be disqualified from the direct cash assistance program for a period of sixty (60) days and, for a third offense within three (3) years of the first offense, shall be disqualified from the direct cash assistance program permanently.

(d) The department shall assist store owners in maintaining policies and practices as necessary to prevent the direct cash assistance provided under this chapter from being used in any EBT transaction at any establishment in subsection (b).

(e) Any store owner or employee, that receives payment for items purchased in the store by or through direct cash assistance funds held on EBT cards or access devices, shall require each employee to complete successfully a training program within thirty (30) days of employment, whether the employment is for the first time, after a rehiring or for a different responsibility in the store. The costs of such training program shall be paid by the employer or the employee.

(1) Each employee shall successfully complete the training program and after doing so, receive a certificate of completion from the program in a format in accordance with the rules promulgated by the department. An employee shall not be authorized to accept EBT card purchases unless the employee has successfully completed the training program and has received a certificate of completion, or is within thirty (30) days of the date of hire. The store owner or retailer shall provide the department with the names and other identifying

information of certified employees within twenty-one (21) days of the date of training.

(2) The store owner shall provide instructions for all employees approved by the department, including:

(A) Laws regarding the list of prohibited products under subsection (b);

(B) Methods of recognizing and dealing with customers who provide electronic benefits transfer cards as a form of payment;

(C) Procedures for refusing to sell the prohibited products listed under subsection (b);

(D) Attendance of at least one (1) annual meeting, at which the store owner or retailer shall disseminate updated information prescribed by the department and the policies and practices related thereto; and

(E) Maintain employment and all training records of all clerks.

(f) The store owners or retailers shall notify the department if a certified employee does not attend an annual meeting as required by subdivision (e)(2) to maintain the employee's valid certification.

(g) The department may, at any time, require store owners to disseminate to certified employees information from the commission that is related to changes in state law or department rules.

(h) The department shall develop and make available on its web site for download a sign specifying the department's fraud hotline. Business associations may also maintain a downloadable form of the sign on the business association's web sites. The sign shall be posted in a conspicuous area in any business accepting EBT cards as a form of payment. Any business accepting EBT cards as a form of payment shall

maintain at each register a list of categories of prohibited products as described in subsection (b).

(i) A store owner who knowingly allows a prohibited EBT transaction in violation of subsection (b) shall be subject to a civil penalty of:

(1) No more than five hundred dollars (\$500) for a first offense;

(2) No more than two thousand five hundred dollars (\$2,500) for a second offense; and

(3) No more than four thousand dollars (\$4,000) for a third or subsequent offense.

(j) A store owner who knowingly violates this section who also possesses a license to sell alcoholic beverages in accordance with title 57 shall be referred to the alcoholic beverage commission for possible disciplinary action.

(k) A store owner who knowingly violates this section and who also possesses a license to sell lottery tickets in accordance with § 4-51-115(d) shall be referred to the board of directors of the Tennessee education lottery corporation for possible disciplinary action.

(l) An employer licensed pursuant to title 62 who knowingly violates this section shall be referred to the appropriate board or commission for possible disciplinary action. 71-3-1102.

(a) The following establishments shall post a sign next to each automated teller machine (ATM) or point of sale terminal located on the premises informing a potential buyer that the automated teller machine or point of sale terminal may not be used to receive cash assistance benefits under title 71:

(1) A store or other establishment whose primary business is the sale of firearms or handguns;

(2) A store or other establishment whose primary business is the sale of alcoholic beverages for which a permit is required pursuant to title 57; or

(3) An adult-oriented establishment pursuant to title 7, chapter 51, part

11.

(b) The owner of an establishment that does not post a sign required pursuant to §71-3-1102(f) or an individual who knowingly accesses cash assistance benefits by using an automated teller machine or point of sale terminal with a sign posted pursuant to subsection (b) commits a Class C misdemeanor.

71-3-1103. A person who is subject to a penalty under this part may appeal such action in writing to the commissioner within five (5) business days of the receipt of the notice of the violation. If timely appealed, the department shall conduct an administrative hearing pursuant to the contested case provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3, concerning the department's action within fifteen (15) business days of receipt of the appeal and shall render a decision in writing within seven (7) days following conclusion of the hearing.

SECTION 2. The department shall report in writing the results of the implementation of this act, specifically the effectiveness and efficiency of training and the posting of appropriate signs, to the senate health and welfare committee and to the health committee of the house of representatives on or before January 15, 2015.

SECTION 3. The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with title 4, chapter 5.

SECTION 4. For the purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2014, the public welfare requiring it.