

SENATE BILL 280

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 71, Chapter 3 and Title 71, Chapter 3, Part 1, relative to temporary assistance for needy families.

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

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

71-3-126.

(a) As used in this section:

( ) "Access device" means a card, code, or other means of access that can be used, alone or in conjunction with another access device, to obtain payments, allotments, benefits, money, goods, or other things of value, or that can be used to initiate a transfer of funds under the Food and Nutrition Act of 2008, 7 U.S.C. § 2011 et seq., or federal regulations issued pursuant to the Food and Nutrition Act of 2008;

( ) "Business establishment" means an establishment including, but not limited to, a factory, assembly plant, retail store, or warehouse, where business is conducted, goods are made, stored, or processed or where services are rendered. This definition shall also include adult cabaret, as defined in § 7-51-1102 and § 7-51-1401, or adult oriented establishments, as defined in § 7-51-1102 and § 7-51-1401;

( ) "Direct cash assistance" means any manner of cash assistance provided by the department of human services or the federal department of health and human services under temporary aid to families for needy families

(TANF), wherein the assistance is provided directly to the recipient, rather than a vendor;

( ) “Electronic benefit transfer (EBT) card” means a card that provides benefits through an electronic benefit transfer and only applies to benefits funded by the TANF block grant. These benefits do not apply to other program benefits that may be delivered by the EBT card including, but not limited to:

unemployment insurance, Supplemental Nutrition Assistance Program (SNAP/food stamps), Women Infant and Children Special Feeding Program (WIC), or child support payments;

( ) “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;

( ) “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;

( ) “Vacation services” means the furnishing of interstate or foreign travel services solely for the purpose of recreation including, but not limited to, transportation, lodging, and travel agent services; provided, however, that vacation services shall not include travel related to:

- (A) A personal or family emergency;
- (B) The death of a family member;
- (C) Employment or the seeking of employment;
- (D) Medical treatment;
- (E) Any appearance before a court of law;
- (F) Court-authorized parental visitation; and

(G) Such other categories of travel which may be designated by the department as non-recreational travel.

(b) No business establishment, its owners, employees, or agents 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:

(1) Intoxicating liquors or alcoholic beverages as defined in Title 57;

(2) State lottery games as defined in § 39-17-601;

(3) Tobacco products as defined in § 67-4-1001;

(4) Adult entertainment, as defined in § 7-51-1102, intended to create or simulate "sexual conduct" or "sexual stimulation" as those terms are defined in § 7-51-1102;

(5) Firearms as defined in § 39-11-106 and "firearm accessories", including, but not limited to, telescopic or laser sights, magazines, flash or sound suppressors, folding or aftermarket stocks and grips, speedloaders, ammunition carriers, and lights for target illumination, as defined in § 4-54-103;

(6) Vacation services;

(7) Tattoos, as defined in §§ 62-38-201, and body piercings, as defined in § 62-38-301, respectively;

(8) Jewelry;

(9) Aesthetics as licensed under the Tennessee Cosmetology Act of 1986 pursuant to Title 62, Chapter 4;

(10) Products or services from rental-purchase agreements regulated under Title 47, Chapter 18, Part 6;

(11) For the payment of any fees, fines, bail, or bail bonds ordered by a court.

(c) A recipient of direct cash assistance who knowingly makes a prohibited purchase in violation of this section shall reimburse the department for such purchase and, for the second offense, shall be disqualified from the direct cash assistance program for a period of sixty (60) days and, for the third offense, shall be disqualified from the direct cash assistance program permanently; provided, however, that the department shall only disqualify an eligible recipient after notice and a hearing pursuant to this part and the rules promulgated under this part.

(d) The department shall assist business establishment owners, employees, or agents 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)

(1) Any business establishment and its owners, employees, or agents who are involved in selling products or services to the public, as determined by the department by rule, that receives payment for items purchased in the establishment with direct cash assistance funds held on electronic benefit transfer cards or access devices, shall require each such owner, employee, or agent to successfully complete a training program within thirty (30) days of the later of June 1, 2013, or commencing employment or service with the establishment, whether the employment is for the first time, after a rehiring or for a different responsibility in the establishment.

(2) 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. The business establishment owners or agents shall provide the department with the names and

other identifying information as required by the department within twenty-one (21) days of the date of training.

(3) Business establishment owners or agents shall provide instructions for all employees as approved by the department which shall include:

(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 at one (1) annual meeting, at which the business establishment owners or agents shall disseminate updated information prescribed by the department and the policies and practices related thereto.

(i) The business establishment owners or agents shall notify the department if an employee does not attend an annual meeting as required by this subdivision, to maintain the employee's valid certification.

(ii) The department shall, at any time, provide updated changes or information from the commissioner to the business establishment owners or agent to distribute to the establishment employees; and

(E) Maintain employment and all training records of all business establishments, its owners, employees, or agents for a period of at least five (5) years.

(f) The department shall develop and make available on its web site for download model signage specifying the list of prohibited products under subsection (b) and the department's fraud hotline. Business associations may also maintain a downloadable form of the sign on the business associations' web sites. Such signs shall be posted in a conspicuous area in any business accepting EBT cards as a form of payment.

(g) It shall be a Class A misdemeanor, punishable by the following fines or as otherwise provided by law, for a business establishment or its owners, employees, or agents to knowingly allow a prohibited EBT transaction in violation of subsection (b). The business establishment, owners, employees, or agents shall be punished:

- (1) \$2500 per occurrence for the first violation; and
- (2) \$5000 per occurrence for two (2) or more violations.

(h) A business establishment or its owners, employees, or agents who knowingly violate this section and who also possesses a license to sell alcoholic beverages under Title 57 shall be referred to the appropriate licensing authority for possible disciplinary action.

(i) A business establishment or its owners, employees, or agents who knowingly violate this section and who also possesses a certificate of authority to sell lottery tickets under § 4-51-115(d) shall be referred to the director of the state lottery for possible disciplinary action.

(j) A business establishment or its owners, employees, or agents who knowingly sells or attempt to sell the services or products in subsection (b) shall be punished by a fine of:

- (1) \$2500 per occurrence for the first violation; and
- (2) \$5000 per occurrence for two (2) or more violations.

(k) A business establishment or its owners, employees, or agents who provide or attempt to provide cash back to the EBT card recipient, with knowledge that the cash will be used in violation of subsection (b), shall be punished by a fine of:

- (1) \$2500 per occurrence for the first violation; and
- (2) \$5000 per occurrence for two (2) or more violations.

SECTION 2. Tennessee Code Annotated, Title 71, Chapter 3, Part 1, is amended by adding the following language as a new, appropriately designated section:

71-3-127.

(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 ATM or point of sale terminal may not be used to receive cash assistance benefits under Title 71:

- (1) An establishment:
  - (A) Where the primary business is the sale of firearms as defined in § 39-17-1316(b);
  - (B) That sells handguns for which a license to sell handguns is required under § 39-17-1316(b); and
  - (C) That is licensed as a retail package store, under § 57-3-204.

(2) An adult-oriented establishment under Title 7, Chapter 51, Part 11, without regard to whether a county adopted a license to operate an adult-oriented establishment issued by the county adult-oriented establishment board.

(3) An establishment that does not post the sign required under subsection (b) or individual who attempts to use an automated teller machine or point of sale terminal with a sign posted as required under subsection (b) to

access cash assistance benefits established under Title 71, commits a Class C misdemeanor.

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

71-3-128.

The department shall report the results of implementation of the TANF restrictions, specifically the effectiveness and efficiency of the mandates to the senate health and welfare committee, the consumer and human resources committee of the house of representatives, and the government operations committees of the senate and house of representatives on or before January 15, 2015.

SECTION 4. 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 Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 6. For the purpose of rulemaking, this act shall take effect upon becoming a law, the public welfare requiring it, and for all other purposes, shall take effect on January 1, 2014.