

Amendment No. 1 to HB1538

Ramsey
Signature of Sponsor

AMEND Senate Bill No. 1699*

House Bill No. 1538

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 71-3-126, is amended by deleting the section in its entirety and by substituting instead the following:

71-3-126.

(a) For the purposes of this section, the term “public assistance benefits” means money or property provided directly or indirectly to eligible persons through the temporary assistance to needy families program.

(b)

(1) Effective July 1, 2015, a recipient of public assistance benefits shall not knowingly use an electronic benefits transfer (EBT) card issued to recipients of public assistance by authority of the department of human services in:

(A) A liquor store as defined in 42 U.S.C. § 608(a)(12)(B)(i);

(B) A business licensed pursuant to § 57-3-204;

(C) Any entity authorized pursuant to § 57-4-102 to sell alcoholic beverages for on premises consumption;

(D) A casino, gambling casino, or gaming establishment as defined in 42 U.S.C. § 608(a)(12)(B)(ii);

(E) Any business or establishment defined under § 7-51-1102;

(F) Any place of business for a professional bondsman defined in § 40-11-301;

(G) Any business defined under § 62-38-201; or

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(H) Any business defined under § 62-38-301.

(2) To the extent permitted by federal law, any person who violates subdivision (b)(1) shall reimburse the department for the purchase.

(c)

(1) A person or entity, or any agent or employee of the person or entity shall not knowingly accept public assistance benefits from an electronic benefits transfer card issued to recipients of public assistance by authority of the department of human services for the purchase of any goods or services in any entity described in subdivision (b)(1).

(2) By January 1, 2015, the department of human services shall compile and maintain a database of all entities listed in subdivision (b)(1) that are located in this state. Such database shall be updated annually and copies shall be distributed to the speaker of the house of representatives, the speaker of the senate, the governor, the secretary of state, and the comptroller of the treasury by January 15 of each year. All appropriate state agencies shall provide assistance to the department upon request of the commissioner of the department of human services.

(3) On or after July 1, 2015, any third party entity contracting with the department of human services to provide automated processing, management, or delivery of any electronic benefit transfer card program shall ensure such EBT cards are not operative at any of the businesses listed in the database of entities

compiled by the department pursuant to subdivision (c)(2). This subdivision shall apply to any third party contracts entered into or renewed with the department on or after July 1, 2015.

(4) Any person or business entity that knowingly violates this subsection (c) shall be subject to the following civil penalties:

(A) One thousand dollars (\$1,000) for the first violation; provided, that for violations of subdivision (c)(2) the penalty shall be one thousand three hundred fifty dollars (\$1,350) for the first violation;

(B) Two thousand five hundred dollars (\$2,500) for the second violation within five (5) years; and

(C) Five thousand dollars (\$5,000) for a third or a subsequent violation within five (5) years.

(5) The district attorney general may bring an action to suspend the business licenses and permits of the person or entity for one (1) year for any violation of this subsection (c).

(d)

(1) A recipient of public assistance benefits shall not knowingly use an electronic benefit transfer card issued to recipients of public assistance by authority of the department of human services in an automated teller machine or point-of-sale device located in any entity described in subdivision (b)(1).

(2) Any person who knowingly violates this subsection (d) shall reimburse the department for the amount withdrawn and used subject to any prohibition in federal law.

(3) Upon a third or subsequent violation, if permitted by federal law, the person shall be permanently disqualified from receiving public assistance

benefits by means of direct cash payment or an electronic benefits transfer access card.

(e) The department of human services shall establish a system for reviewing electronic benefit transactions of recipients pursuant to this section on such basis as the commissioner may determine, but not less than on a quarterly basis, and shall take such administrative or legal action, including issuance of civil penalties as established in subdivision (c)(4) and by seeking injunctive relief in the chancery court of the county where the entity is located, as may be necessary to enforce the provisions of this section.

(f) A person or entity subject to a penalty or sanction under this section shall have the right to a hearing pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(g) The commissioner of human services is authorized to promulgate rules and regulations, including emergency rules, to effectuate the purposes of this section. All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(h) All sums recovered pursuant to subdivision (c)(4) shall be paid into the state treasury, but shall be earmarked to be used by the department exclusively for administration of this section.

SECTION 2. The department of human services shall conduct a study to determine ways to improve program integrity efforts of the EBT program. The department shall report the results of such study to the senate commerce and labor committee and to the house health committee by January 15, 2016.

SECTION 3. For rulemaking purposes, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2015, the public welfare requiring it.