

Amendment No. 1 to SB1699

Johnson
Signature of Sponsor

AMEND Senate Bill No. 1699*

House Bill No. 1538

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

SECTION 1. Tennessee Code Annotated, Section 71-3-126, is amended by deleting §71-3-126 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) A recipient of public assistance benefits shall not knowingly use an electronic benefits transfer 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 casino, gambling casino, or gaming establishment as defined in 42 U.S.C. § 608(a)(12)(B)(ii); or

(C) An adult cabaret as defined in § 7-51-1102.

(2) A recipient of public assistance benefits shall not knowingly use an electronic benefits transfer card issued to recipients of public assistance by authority of the department of human services in:

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

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

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

(3) The department of human services shall conduct a study to determine ways to improve integrity of the EBT program by use of enforcement procedures, monitoring techniques or technologies that will assist in helping ensure that the public assistance benefits contained on electronic benefit transfer cards issued to recipients of public assistance by authority of the department of human services are properly used for the benefit of the recipient's family. 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.

(4) To the extent permitted by federal law, any person who violates subdivisions (b)(1) or (b)(2) 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 or with any person described in subdivisions (b)(1) or (b)(2).

(2) Any person or 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;

(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.

(3) In addition to the civil penalties in subdivisions (2)(A)-(C), 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 or with any person described in subdivisions (b)(1) or (b)(2).

(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)(2) 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)

(1) The commissioner of human services is authorized to promulgate rules and regulation, 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.

(2) The department shall add by rule to the prohibited use of an electronic benefits transfer card other purchases to the fullest extent later permitted by federal law if directed to do so by the general assembly following filing of the study results required by subdivision (b)(3).

(h) All sums recovered pursuant to subsection (c)(2) 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. For purposes of promulgating rules, this act shall take effect upon becoming law, the public welfare requiring it; for all other purposes, this act shall take effect July 1, 2015, the public welfare requiring it.