

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1048

INTRODUCER: Regulated Industries Committee and Senator Gardiner

SUBJECT: Electronic Benefits Transfer Cards

DATE: April 16, 2013                      REVISED: \_\_\_\_\_

|    | ANALYST         | STAFF DIRECTOR | REFERENCE | ACTION             |
|----|-----------------|----------------|-----------|--------------------|
| 1. | <u>Kraemer</u>  | <u>Imhof</u>   | <u>RI</u> | <b>Fav/CS</b>      |
| 2. | <u>Peterson</u> | <u>Hendon</u>  | <u>CF</u> | <b>Favorable</b>   |
| 3. | <u>Brown</u>    | <u>Hansen</u>  | <u>AP</u> | <b>Pre-meeting</b> |
| 4. | _____           | _____          | _____     | _____              |
| 5. | _____           | _____          | _____     | _____              |
| 6. | _____           | _____          | _____     | _____              |

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

CS/SB 1048 amends s. 402.82, F.S., relating to electronic benefits transfer (EBT) cards. The bill prohibits the use or acceptance of EBT cards for the following activities or at the following locations: gaming, gaming establishments or facilities, or any gaming activities authorized under part II of ch. 285, F.S., (the Gaming Compact between the Seminole Tribe of Florida and the State of Florida, executed on April 7, 2010); establishments licensed to sell distilled spirits; adult entertainment establishments; pari-mutuel facilities; slot machine facilities; commercial bingo facilities; and casinos.

The bill does not have a fiscal impact on the state.

The bill has an effective date of October 1, 2013.

This bill substantially amends section 402.82, Florida Statutes.

## II. Present Situation:

### Temporary Assistance for Needy Families

The Temporary Assistance for Needy Families (TANF) block grant provides federal funding to states for a wide range of benefits and activities, but is primarily known as the major source of funding for cash assistance for needy families with children.<sup>1</sup> According to a Congressional Research Service Report, in federal fiscal year 2011, Florida received a total of \$1.012 billion in TANF grant funds. Of that, Florida spent 17 percent, or \$171,700,000, on its cash assistance program. Through this program Florida served 76,785 children and 16,194 adults.<sup>2</sup>

Individuals who apply and are approved to receive cash assistance in Florida will receive an EBT card in the mail from the Department of Children and Families (DCF) with instructions on how to use it. An EBT card functions like a bank debit card.<sup>3</sup>

In 2012, Congress enacted the Welfare Integrity and Data Improvement Act (the Act) as part of the larger Middle Class Tax Relief and Job Creation Act.<sup>4</sup> The Act requires states to maintain policies and procedures that will prevent EBT transactions relating to TANF benefits in the following locations:

- Liquor stores, defined as a retail establishment selling intoxicating liquor;
- Casino, gambling casino, or gaming establishments;
- Retail establishments which provide adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

In order to avoid a five percent reduction in the state's TANF grant money, the state must report to the secretary of the federal Department of Health and Human Services (HHS) by February 2014 regarding implementation of the required spending policies and practices.

### Regulated Industries

In Florida, "adult entertainment establishment" means the following terms as defined in statute:<sup>5</sup>

- An "adult bookstore" means any corporation, partnership, or business of any kind which restricts or purports to restrict admission only to adults, which has as part of its stock books, magazines, other periodicals, videos, discs, or other graphic media and which offers, sells, provides, or rents for a fee any sexually oriented material;
- An "adult theater" means an enclosed building or an enclosed space within a building used for presenting either films, live plays, dances, or other performances that are distinguished or

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<sup>1</sup> 42 U.S.C. ss 601 - 619.

<sup>2</sup> Congressional Research Service, *The Temporary Assistance for Needy Families (TANF) Block Grant: Responses to Frequently Asked Questions*, (Jan. 22, 2013), available at <https://www.fas.org/sgp/crs/misc/RL32760.pdf> (last visited April 4, 2013).

<sup>3</sup> Department of Children and Families web site, available at <http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash/welcome-ebt> (last visited April 11, 2013).

<sup>4</sup> Pub. Law. No. 112-96, H.R. 3630, (112th Cong.) (Feb. 22, 2012).

<sup>5</sup> Section 847.001(2), F.S.

characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults;

- A “special cabaret” means any business that features persons who engage in specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults; or
- An “unlicensed massage establishment” means any business or enterprise that offers, sells, or provides, or that holds itself out as offering, selling, or providing, massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. The term “unlicensed massage establishment” does not include an establishment licensed under s. 480.043, F.S., which routinely provides medical services by state-licensed health care practitioners and massage therapists licensed under s. 480.041, F.S.

Pari-mutuel gambling is authorized at pari-mutuel facilities under ch. 550, F.S. Pari-mutuel facilities are defined as a “racetrack, fronton, or other facility used by a permit holder for the conduct of pari-mutuel wagering.”<sup>6</sup>

Slot machines are currently authorized at pari-mutuel facilities in Miami-Dade and Broward counties pursuant to ch. 551, F.S. Slot machines and banked table games are authorized at the Seminole Tribe of Florida’s facilities through the Gaming Compact between the Tribe and the State of Florida that is ratified under s. 285.710, F.S.

Slot machine facility is defined in s. 551.102(9), F.S., as a facility at which slot machines are lawfully offered for play. In turn, “slot machine” means any mechanical or electrical contrivance, terminal (whether or not able of downloading games from a central server system), machine, or other device that, upon insertion of a coin, bill, ticket, token, or similar object, or upon payment of any consideration, including the use of any electronic payment system except a credit card or debit card, is available to play or operate, whether skill or chance or both, may deliver or entitle the player to receive cash, billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value, whether the payoff is made automatically or manually. A slot machine may use spinning reels, video displays, or both, but is not a “coin-operated amusement machine” as defined in s. 212.02(24), F.S., or an amusement game or machine as described in s. 849.161, F.S.<sup>7</sup>

Under s. 849.0931, F.S., the only entities or groups authorized to conduct bingo are charitable, nonprofit, or veterans’ organizations directly involved in the conduct of a bingo game, or condominium associations, cooperative associations, homeowners’ associations as defined in s. 720.301, F.S., mobile home owners’ associations, groups of residents of mobile home parks as defined in ch. 723, F.S., or groups of residents of a mobile home park or recreational vehicle park as defined in ch. 513, F.S., where the net proceeds from such games are returned to players

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<sup>6</sup> Under s. 550.002(23), F.S., a person must be issued a permit prior to conducting pari-mutuel wagering in Florida. An initial permit must be approved or rejected by the electors in the county in a special election conducted pursuant to s. 550.0651, F.S.

<sup>7</sup> See s. 551.102(8), F.S.

in the form of prizes after deduction of the actual business expenses for such games for articles designed for and essential to the operation, conduct, and playing of bingo.

The sale of liquor is regulated under the Beverage Law.<sup>8</sup> The number of liquor licenses granted under s. 565.02, F.S., is limited by population under s. 561.20, F.S. These licenses are referred to as “quota” licenses. Retailers (vendors) who receive a license under s. 565.02, F.S., may sell any alcoholic beverages regardless of alcoholic content. Liquor is defined in s. 565.01, F.S., to include “distilled spirits,” “spirituous liquors,” “spirituous beverages,” or “distilled spirituous liquors,” and to mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced. Section 565.04, F.S., limits what can be sold by vendors licensed under s. 565.02(1)(a), F.S., and s. 565.045, F.S., provides regulations for consumption on the premises. Bottle clubs are defined in s. 561.01(15), F.S., to include commercial establishments that allow patrons to bring their own alcoholic beverages for consumption on the premises. The term does not include sporting facilities, licensed hotels, motels, or restaurants.

### III. Effect of Proposed Changes:

**Section 1** amends s. 402.82(1), F.S., to prohibit the use or acceptance of an EBT card at:

- Any establishment licensed to sell distilled spirits as a vendor and restricted in the types of products that can be sold by package stores under s. 565.04, F.S., and by restaurants and bars under s. 565.045, F.S., or by a bottle club as defined in s. 561.01, F.S.;
- An adult entertainment establishment as defined in s. 847.001, F.S.;
- A pari-mutuel facility as defined in s. 550.002, F.S.;
- A slot machine facility as defined in s. 551.102, F.S.;
- A commercial bingo facility that operates outside the provisions of s. 849.0931, F.S.; and
- A casino, gaming facility, or gambling facility, or any gaming activities authorized under part II of ch. 285, F.S.

The bill directs the DCF to develop enforcement procedures for the EBT program.

The bill also makes two technical corrections, revising the terms “electronic benefit transfer” to “electronic benefits transfer” and “Department of Children and Family Services” to “Department of Children and Families,” as those terms appear in the section.

**Section 2** provides an October 1, 2013 effective date.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>8</sup> Section 561.01(6), F.S. defines the Beverage Law to mean chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Owners of point-of-sale terminals and automated teller machines in prohibited locations will be required to program those machines so that any card issued with the Florida EBT Bank Identification Number will be rejected.<sup>9</sup>

**C. Government Sector Impact:**

According to the DCF, while the current EBT vendor does not have the capability to block use of EBT cards in prohibited locations, a subsequent EBT vendor will be required to provide that service effective October 1, 2013.<sup>10</sup> The DCF does not anticipate an increase in the contract cost to implement the new requirement.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Regulated Industries on April 2, 2013:**

The committee substitute clarifies the type of distilled spirit retail establishments and those gambling facilities where electronic benefits transfer cards may not be used or accepted. The committee substitute provides that use or acceptance of electronic benefits transfer cards is prohibited at the following locations or for the following activities:

<sup>9</sup> *Supra*, note 5.

<sup>10</sup> Department of Children and Families, *SB 1048 Staff Analysis and Economic Impact*, (March 20, 2013) (on file with the Senate Committee on Children, Families, and Elder Affairs).

- Establishments licensed under the Beverage Law sell distilled spirits (no longer restricted to those vendors selling distilled spirits containing 6 percent or more alcohol by volume);
- Adult entertainment establishments;
- Pari-mutuel facilities;
- Slot machine facilities;
- Commercial bingo facilities operating outside the provisions of s. 849.0931, F.S.; and casinos, gaming facilities, gambling facilities, or any gaming activities authorized under part II of ch. 285, F.S., (the Gaming Compact between the Seminole Tribe of Florida and the State of Florida, executed on April 7, 2010).

B. Amendments:

None.