

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: CS/CS/CS/HB 701

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Health & Human Services
Committee; Health Care
Appropriations Subcommittee;
Healthy Families Subcommittee;
Smith and others

89 Y's 26 N's

**COMPANION (CS/SB 1048)
BILLS:**

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

CS/CS/CS/HB 701 passed the House on April 18, 2013, and subsequently passed the Senate on April 26, 2013. The bill makes changes to s. 402.82, F.S., for the electronic benefits transfer program. Electronic benefit transfer cards (EBT) cards are used to hold cash assistance and food assistance benefits. The bill conforms state law to federal law by prohibiting the use of EBT cards in:

- An adult entertainment establishment, as defined in s. 847.001, F.S.;
- A pari-mutuel facility, casino, gaming facility, or Internet café, including gaming activities authorized under part II of chapter 285;
- A commercial bingo facility that is not authorized under s. 849.0931, F.S.; and
- An establishment licensed under the Florida Beverage Law to sell distilled spirits containing six percent or more alcohol by volume as a vendor and that is restricted in the types of products that may be sold under ss. 565.04 and 565.045, F.S. or a bottle club as defined in s. 561.01, F.S.

The bill does not appear to have a fiscal impact on state government.

The bill was approved by the Governor on May 30, 2013, ch. 2013-88, L.O.F., and will become effective on October 1, 2013.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Supplemental Nutrition Assistance Program (SNAP)

SNAP, previously known as the food stamps program, is a federal program that is administered by the individual states. SNAP aims to “provide children and low income people access to food, a healthy diet, and nutrition education.”¹

The Food and Nutrition Act of 2008 defines “eligible food” as “any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods and hot food products prepared for immediate consumption.”² Eligible food also includes seeds and plants to grow foods for personal consumption, as well as some additional exceptions to allow for hot food products ready for consumption in certain circumstances.³

The Florida Department of Children and Families (DCF) administers the state’s food assistance program.⁴ The food assistance program is a 100 percent federally-funded program. The United States Department of Agriculture determines the amount of food assistance benefits an individual or family receives, based on the families’ incomes and resources.⁵ Food assistance benefits supplement a family’s food budget. Households may need to spend some of their own cash, along with their food assistance benefits, to buy enough food for a month.⁶ State law provides that DCF shall establish procedures in compliance with federal law for notifying the appropriate federal and state agencies of any violation of law regarding the food assistance program and must also notify the Department of Financial Services.⁷ As of February 5, 2013, 15,752 Florida retailers accept SNAP benefits.⁸

Temporary Cash Assistance Program

DCF administers the cash assistance program with Temporary Assistance for Needy Families funds to help families become self-supporting while allowing children to remain in their own homes.⁹ Cash assistance is available to two categories of families: work-eligible and child-only.¹⁰ Current law provides that families are eligible for temporary cash assistance for a lifetime cumulative total of 48 months (4 years).¹¹

Temporary Assistance for Needy Families

Under the welfare reform legislation of 1996, the Personal Responsibility and Work Opportunity Reconciliation Act, Public Law 104-193, the Temporary Assistance for Needy Families (TANF) program replaced the welfare programs known as Aid to Families with Dependent Children, the Job Opportunities and Basic Skills Training program and the Emergency Assistance program. The law

¹Nutrition Assistance Programs, USDA Food and Nutrition Service, *available at*: <http://www.fns.usda.gov/fns/>. (last visited 1/27/12).

² 7 C.F.R. s. 271.2.

³ P.L. 110-246, provides that certain individuals because of age, disability or living arrangement may purchase hot foods with their SNAP EBT card.

⁴ s. 414.31, F.S.

⁵ *Id.*

⁶ DCF Food Assistance Program Fact Sheet, *accessible at*: www.dcf.state.fl.us/programs/access/docs/fafactsheet.pdf .(last visited 1/27/12).

⁷ s. 414.33, F.S.

⁸ SNAP Retailer Locator, United States Department of Agriculture, *accessible at*: <http://snap-load-balancer-244858692.us-east-1.elb.amazonaws.com/index.html> . (last visited 2/28/12).

⁹ DCF Food Assistance Program Fact Sheet, www.dcf.state.fl.us/programs/access/docs/fafactsheet.pdf .(last visited 1/4/12).

¹⁰ S. 414.045(1).

¹¹ Section 414.105, F.S.

ended federal entitlement to assistance and instead created TANF as a block grant that provides states, territories and tribes federal funds each year. These funds cover benefits, administrative expenses, and services targeted to needy families. TANF became effective July 1, 1997, and was reauthorized in February 2006 under the Deficit Reduction Act of 2005.¹² States receive block grants to operate their individual programs and to accomplish the goals of the TANF program.¹³ DCF administers the TANF program in conjunction with the Agency for Workforce Innovation.¹⁴

Electronic Benefits Cards

Both temporary cash assistance and food assistance monies are placed on an Electronic Benefits Transaction (EBT) card. Under s. 402.82, F.S., DCF administers the EBT program. Once an individual applies for cash assistance or food assistance with DCF, the individual will receive an EBT card in the mail.¹⁵ The card functions much like a credit card or debit card: food assistance money can be used at any retail store that accepts the EBT SNAP (Supplemental Nutrition Assistance Program) Card. Cash assistance money can be used to purchase a variety of items and may also be used at automatic teller machines (ATM's) and Point of Sale (POS) machines.¹⁶

Spending Policies for Assistance Under State TANF Programs

On February 22, 2012, the Middle Class Tax Relief and Job Creation Act of 2012 (Act) was signed by the President. The Act requires states receiving TANF to create policies and practices as necessary to prevent assistance provided under the program from being used in any EBT transaction in the following establishments:

- Any liquor store;
- Any casino, gambling casino, or gaming establishment; or
- Any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.¹⁷

The Act does not require states to enact legislation in order to comply with the new EBT restrictions. States are required to update their state plans with an explanation of how the restrictions will be implemented. The state plans must also provide an explanation on how recipients will have adequate access to cash assistance with minimal or no fees or charges for withdrawal. States must report to the Secretary of the U.S. Department of Health and Human Services regarding their implementation of the policies and practices by February 22, 2014.¹⁸

If states do not comply with these requirements by that date, the Secretary will reduce the state's family assistance grant by up to five percent.¹⁹ If the policies and practices are not implemented, the state of Florida could additional five percent reductions for subsequent fiscal years until the state complies.²⁰

¹² US Dept. of Health and Human Services, Administration on Children and Families, *accessible at*: <http://www.acf.hhs.gov/programs/ofa/tanf/about.html> (last visited on 12/21/11).

¹³ Temporary Assistance for Needy Families, the Department of Children and Families, *accessible at*: <http://www.dcf.state.fl.us/programs/access/docs/TANF%20101%20final.pdf>.

¹⁴ *Id.*

¹⁵ Department of Children and Families Access Program. <http://www.dcf.state.fl.us/programs/access/foodassistance.shtml>. (last visited 1/27/12).

¹⁶ How to use your EBT Card at a Point-of-Sale (POS) or ATM Machine, The Department of Children and Families, *available at*: <http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash/how-use-your-ebt-card-point-sale-pos-or-atm-machine>. (last visited 3/7/13).

¹⁷ P.L. 112-96. Section 4004.

¹⁸ U.S. Department of Health and Human Services, Administration on Children and Families, Office of Family Assistance available at <http://www.acf.hhs.gov/programs/ofa/resource/q-a-ebt-transactions>. Last visited March 5, 2013.

¹⁹ Q & A: TANF Requirements Related to EBT Transactions, Office of Family Assistance, *accessible at*: <http://www.acf.hhs.gov/programs/ofa/resource/q-a-ebt-transactions>.

²⁰ Q & A: TANF Requirements Related to EBT Transactions, Office of Family Assistance, *accessible at*: <http://www.acf.hhs.gov/programs/ofa/resource/q-a-ebt-transactions>.

Florida's State Family Assistance Grant, also called the TANF Block Grant, is \$562,340,120.²¹ The Federal Office of Family Assistance, within the Office of Administration for Children and Families, clarified that state legislation is not required as long as the policies and practices required by the Act are in place.²² As of March 5, 2013, DCF has not yet issued any policies or practices to implement this requirement. However, DCF plans to adopt the required policies and practices following the 2013 Legislative Session, in order to implement any additional requirements in this bill.²³

DCF contracts with a vendor to administer the EBT program. With the current EBT vendor, J.P. Morgan, blocking EBT use at certain sites must be done at the individual or terminal level.²⁴ However, DCF has recently completed a procurement process for a new EBT vendor, FIS/eFunds. DCF and FIS/eFunds have a 3-year contract, which will take effect on October 1, 2014. As part of the contract, the new EBT vendor is required to make any and all required changes to the Women, Infants and Children, EBT, and SNAP systems when policy, rules, or regulatory changes are made by Florida legislation. This must be completed without any additional cost to DCF.²⁵ There are two steps the vendor must take to restrict the use of EBT at the locations required by federal law:

- **Step 1: Blocking at POS Machines.** The vendor will block POS transactions from businesses that are identified by the Merchant Category Code (MCC) assigned when retailer agreements are established. MCCs include package stores, beer, wine, liquor, high risk adult entertainment, and betting including lottery, casino, and wagers. The state will identify and share with the vendor which MCC codes the vendor should block. The accuracy of this restriction is dependent on programming of the MCC in the machine to indicate it is located in one of these retailers. MCC codes should be programmed at the time the POS is established.
- **Step 2: Blocking at ATMs.** The vendor will block ATM transactions by programming a block based on the specific ATM terminal identification number (ID). Terminal IDs are not readily accessible, which requires an on-site visit to the ATM. Since the ID is not on the exterior of the machine, a special EBT card will be used to generate a transaction to the vendor. The vendor will then enter this terminal ID into their system to block any EBT Cash transactions. The block is associated with the terminal ID; if replaced or moved it will need to be re-blocked or unblocked.²⁶

Effect of Proposed Changes

The bill prohibits EBT cards from being accepted at the following locations:

- An adult entertainment establishment, as defined in s. 847.001, F.S.;
- A pari-mutuel facility, casino, gaming facility, or Internet café, including gaming activities authorized under part II of chapter 285;
- A commercial bingo facility that is not authorized under s. 849.0931, F.S.; and
- An establishment licensed under the Florida Beverage Law to sell distilled spirits containing six percent or more alcohol by volume as a vendor and that is restricted in the types of products that may be sold under ss. 565.04 and 565.045, F.S. or a bottle club as defined in s. 561.01, F.S.

²¹ E-mail correspondence with the Department of Children and Families, February 28, 2013.

²² Q & A: TANF Requirements Related to EBT Transactions, Office of Family Assistance, *accessible at*: <http://www.acf.hhs.gov/programs/ofa/resource/q-a-ebt-transactions>.

²³ E-mail correspondence with Gary Scott, Government Operations Consultant with the Department of Children and Families, Marcy 6, 2013.

²⁴ Phone conversation with Debbie McLemore, Bureau Chief of EBT with the Department of Children and Families, May 9, 2013.

²⁵ E-mail correspondence with the Jeri Flora, Director of Economic Self Sufficiency, Department of Children and Families, March 13, 2013

²⁶ *Id.*

Many retail establishments sell restricted alcoholic and tobacco products alongside allowable food products. The bill attempts to identify the retailers that are visited primarily to purchase restricted alcoholic products. This distinction will allow cash beneficiaries to continue using EBT cards at ATMs in places where permissible food items are available for purchase (e.g., supermarkets).

The bill conforms state law to the federal requirements for use of TANF benefits and EBT transactions, as specified in the Act. The EBT vendor can make the blocks required by the Act, as explained above. This will avoid a 5 percent reduction in Florida's TANF block grant.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.