

**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 Agriculture

BILL: SB 778

INTRODUCER: Senator Thompson

SUBJECT: Transactions in Fresh Produce Markets

DATE: February 28, 2013      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Halley	AG	<b>Pre-meeting</b>
2.	_____	_____	CF	_____
3.	_____	_____	AP	_____
4.	_____	_____	RC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

SB 778 requires an owner or operator of a market that sells fresh produce to allow an authorized and non-competing third party to establish an EBT<sup>1</sup> system to accept SNAP<sup>2</sup> payments for the market’s produce sellers, to the extent allowed by federal law and regulation. It only applies to a market that is an authorized SNAP retailer but does not have an EBT system. The bill does not apply to a market with an existing EBT system for accepting SNAP benefits, nor does it require that a market operate an EBT system for its produce sellers. It also does not prohibit an authorized Food Nutrition Service produce seller from operating its own EBT system for its own customers. The bill directs the Department of Children and Families (DCF) to adopt rules to administer the provisions of the bill.

This bill creates an unnumbered section of the Florida Statutes.

**II. Present Situation:**

The Center for Disease Control and Prevention (CDC) reports that research shows that a healthy diet, rich in fruits and vegetables, provides a wide range of vitamins, minerals, and other natural substances that may help protect a body from chronic diseases.<sup>3</sup> The Food Research and Action Center (FRAC) observes that it is well documented that the SNAP program, formerly the Food Stamp Program, is beneficial to the health of children and adults and the well-being of low-income people in our country.<sup>4</sup> SNAP benefits are delivered through EBT cards, which are used

<sup>1</sup> Electronic Benefit Transfer.

<sup>2</sup> Supplemental Nutrition Assistance Program.

<sup>3</sup> See <http://www.cdc.gov/nutrition/everyone/fruitsvegetables/index.html>. Site last visited February 18, 2013.

<sup>4</sup> See <http://frac.org/wp-content/uploads/2011/06/SNAPstrategies.pdf>. Site last visited February 19, 2013.

like debit cards at authorized food retailers. The federal government pays 100 percent of the SNAP benefits, but the federal and state governments share administrative costs.<sup>5</sup>

Many venues, especially in low income communities, do not accept SNAP. SNAP redemptions at farmers' markets accounted for only 0.01 percent of approximately \$64.4 billion in SNAP redemptions in FY 2010. Only 1,611 individual farmers and farmers' markets of the 6,132 operating nationwide in FY 2010, about one fourth, accepted SNAP benefits.<sup>6</sup> The Johns Hopkins Center for a Livable Future issued a report in the summer of 2012 detailing the relationship between nutritious food, farmers' markets, and the SNAP program. The report relates that access to farmers' markets for low-income consumers is negatively impacted because the SNAP program cannot be used as these markets lack wireless terminals that process EBT sales. According to the Johns Hopkins report, SNAP redemptions at farmers markets fell by half between 1992 and 2009 with the transition to EBT, which started in 1993. The report concludes that EBT technology at farmers markets has the potential to increase SNAP participants' diets and health by increasing access to fresh, local fruits and vegetables.<sup>7</sup>

As part of state and federal initiatives to encourage SNAP participants to eat more nutritious foods, a pamphlet ("SNAP/EBT at your Farmers' Market: Seven Steps to Success") was designed to assist farmers' markets with reaching out to SNAP customers. In order to encourage greater EBT participation, the United States Department of Agriculture (USDA) provided grant money for markets to implement an EBT system if they were not already authorized SNAP retailers on or before November 18, 2011. On July 27, 2012, the State of Florida announced the availability of the USDA grant money and engaged in a marketing campaign to encourage more farmers' markets to participate in EBT. That effort has resulted in eight markets participating in the program with three more markets in the implementation phase.<sup>8</sup>

The Department of Agriculture and Consumer Services operates 13 "State Farmers' Markets" under the authority contained in s. 570.07(18), F.S. Of the 13 markets, five have retail businesses that sell products to the public and three of them have installed EBT systems at their own expense.<sup>9</sup> Other farmers' markets are operated by local governments, not-for-profit organizations, private organizations, business development groups, and individuals, each of which has its own system for accepting payment for products.<sup>10</sup> The USDA provided information in July 2012, that there were 127 farmers' markets in Florida and 25 were participating in the SNAP program prior to the additional eight being brought into the program with the new funding. There are various reasons why a farmers' market does not have an EBT system ranging from a decision by the owner not to accept SNAP benefits<sup>11</sup> to a lack of access to electricity and phone lines needed for vendors to accept EBT cards or a business decision not to fund the

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<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> See [http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-a-livable-future/pdf/projects/ffp/farm\\_bill/Reuniting-Snap-Participants-and-Farmers-Markets.pdf](http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-a-livable-future/pdf/projects/ffp/farm_bill/Reuniting-Snap-Participants-and-Farmers-Markets.pdf). Site last visited February 19, 2013.

<sup>8</sup> Department of Children and Families Staff Analysis and Economic Impact, February 18, 2013. Copy on file with the Senate Agriculture Committee.

<sup>9</sup> Correspondence dated February 20, 2013 from Office of Legislative Affairs, Department of Agriculture and Consumer Services. Copy on file with Senate Agriculture Committee.

<sup>10</sup> Department of Children and Families Staff Analysis, p. 2.

<sup>11</sup> Ibid.

wireless technology and associated costs of implementation that are typically necessary to handle EBT sales.<sup>12</sup>

The food stamp program for retailers (called the SNAP program on the federal level) and the certification of a retailer to use an EBT system to process SNAP payments are administered by the USDA Food and Nutrition Service.<sup>13</sup> At the state level, the Florida DCF's responsibility for administering SNAP is limited to determining eligibility and issue benefits.<sup>14</sup>

### III. Effect of Proposed Changes:

**Section 1** creates an unnumbered section of the Florida Statutes relating to transactions in fresh produce markets with the following provisions:

1. The bill provides the following definitions:
  - "Market" means a farmers' market, community farmers' market, flea market, or other open air market.
  - "SNAP" means the federal Supplemental Nutrition Assistance Program.
2. The bill requires an owner or operator of a market selling fresh produce who is an authorized SNAP retailer, but who does not have an EBT system for accepting SNAP benefits by January 1, 2014, to allow specified, authorized third parties, who may not be a competing market, to accept SNAP benefits on behalf of produce sellers to the extent allowed by federal law and regulation. It requires the market owner or operator to reasonably accommodate the authorized third party in the implementation and operation of an EBT system.
3. The bill does not
  - apply to a market selling fresh produce whose owner or operator has a system in place for accepting SNAP benefits.
  - prohibit an authorized Food Nutrition Service produce seller from operating its own EBT system for its customers' transactions.
  - require a market owner or operator to create, operate, or maintain an EBT system on behalf of its produce sellers.
4. The bill directs DCF to adopt rules to administer this section.
5. The bill provides that this act shall take effect July 1, 2013.

### IV. Constitutional Issues:

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

None.

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<sup>12</sup> [http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-a-livable-future/pdf/projects/ffp/farm\\_bill/Reuniting-Snap-Participants-and-Farmers-Markets.pdf](http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-a-livable-future/pdf/projects/ffp/farm_bill/Reuniting-Snap-Participants-and-Farmers-Markets.pdf), p.4.

<sup>13</sup> See [http://myflorida.custhelp.com/app/answers/detail/a\\_id/2675/~/accepting-food-stamps-in-my-business---how-do-i-become-an-ebt-retailer%3F](http://myflorida.custhelp.com/app/answers/detail/a_id/2675/~/accepting-food-stamps-in-my-business---how-do-i-become-an-ebt-retailer%3F).

<sup>14</sup> Department of Children and Families Staff Analysis, p. 3

**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:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

The term “Food Nutrition Service” as used in the bill to describe a group, an association, a third party organization, and a produce seller is intended to read “Food and Nutrition Service.”

Section (2) of the bill requires consent and accommodation from the owner or operator of a farmers’ market to allow specified third parties to implement an EBT system to accept SNAP payments under certain circumstances and authorizes DACS to adopt rules for this purpose. As a retailer cannot be required but, upon voluntary application, can only be authorized and licensed by USDA to participate in the SNAP program, the suggested action should be permissive and not mandatory.

**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.)

None.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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