

**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.)

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: SB 284

INTRODUCER: Senator Thompson

SUBJECT: Commercial Transactions in Fresh Produce Markets

DATE: November 2, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	<u><b>Favorable</b></u>
2.	<u>                    </u>	<u>                    </u>	<u>AHS</u>	<u>                    </u>
3.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>

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**I. Summary:**

SB 284 permits an owner or operator of a market that sells fresh produce to allow a non-competing third party that has been authorized by the United States Department of Agriculture (USDA) to be a Supplemental Nutrition Services Program (SNAP) retailer to establish an Electronic Benefit Transfer (EBT) system to accept SNAP payments for the market's produce sellers, to the extent allowed by federal law and regulation. The bill does not require a market owner or operator to operate or maintain 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 has no fiscal impact to the state. It has an effective date of July 1, 2016.

**II. Present Situation:**

The Food Research and Action Center reports that it is well documented that the SNAP program that delivers monthly benefits through EBT cards (formerly the Food Stamp Program) is beneficial to the health of children and adults and the well-being of low-income people in the United States by enhancing the food purchasing power of eligible low-income families. The review further finds that many venues, especially in low income communities, do not accept SNAP cards.<sup>1</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 states that low-income consumers lack access to farmers' markets because the SNAP program cannot be used at many such markets since they lack wireless terminals to process EBT sales.

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<sup>1</sup> See <http://frac.org/wp-content/uploads/2011/06/SNAPstrategies.pdf>. (last visited October 26, 2015).

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 improving EBT technology at farmers' markets has the potential to improve SNAP participants' diets and health by increasing access to fresh, local fruits and vegetables.<sup>2</sup>

The federal government pays 100 percent of the SNAP benefits while the federal and state governments share administrative costs.<sup>3</sup> The SNAP program for retailers 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>4</sup>

The USDA defines farmers' market as a multi-stall market at which farmer-producers sell agricultural products directly to the general public at a central or fixed location, particularly fresh fruit and vegetables (but also meat products, dairy products, and/or grains).<sup>5</sup> While there has been a boom in the number of farmers' markets in the last two decades, there is still limited access for the nation's poorest consumers. Data from USDA shows there were 7,864 farmers' markets of which 1,645, about one out of five, accepted SNAP payments as of mid-year 2012.<sup>6</sup>

In order to encourage greater EBT participation by farmers' markets, the USDA provided grant money for a farmers' market to implement an EBT system if the market was not already an authorized SNAP retailer on or before November 18, 2011. On July 27, 2012, the Department of Children and Families (DCF) 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 fourteen markets participating in the program with one more in the implementation phase.<sup>7</sup> Grant money is still available to provide EBT systems to authorized participants.

The Department of Agriculture and Consumer Services (DACS) operates 12 "State Farmers' Markets" under the authority contained in s. 570.07(18), F.S. Of the 12 markets, five have retail businesses that sell products to the public and three of these have installed EBT systems at their own expense. 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>8</sup>

There are various reasons why a farmers' market does not have an EBT system. These include a decision by the owner not to accept SNAP benefits, a lack of access to electricity and phone lines needed for vendors to accept EBT cards, or a business decision not to fund the wireless technology and associated costs of implementation that are typically necessary to handle EBT sales. Southern Food Policy Advocates, an organization whose self-defined mission is to address

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<sup>2</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). (last visited October 26, 2015).

<sup>3</sup> See <http://frac.org/federal-foodnutrition-programs/snapfood-stamps/>. (last visited October 26, 2015).

<sup>4</sup> See SB 552 by Senator Thompson from the 2014 Legislative Session.

<sup>5</sup> See <http://www.fns.usda.gov/ebt/what-farmers-market> (last visited October 26, 2015).

<sup>6</sup> See <http://www.usnews.com/news/articles/2012/08/06/farmers-market-boom-not-reaching-many-food-stamp-users> (last visited October 26, 2015).

<sup>7</sup> See SB 552 by Senator Thompson from the 2014 Legislative Session.

<sup>8</sup> Correspondence dated October 29, 2015, from Office of Legislative Affairs, Department of Agriculture and Consumer Services. (on file with Senate Agriculture Committee).

issues concerning food, nutrition, and fitness of Floridians,<sup>9</sup> points out that while the USDA program gives emphasis to farmers' markets, fresh produce is also sold at other venues, such as flea markets and open air markets.<sup>10</sup>

### III. Effect of Proposed Changes:

**Section 1** creates an undesignated section of Florida law relating to transactions in markets that sell fresh produce. The bill provides the following definitions: a "Market" means a farmers' market, community farmers' market, flea market, or other open air market, and "SNAP" means the federal Supplemental Nutrition Assistance Program.

The bill permits an owner or operator of a market that sells fresh produce, but who is not already a SNAP retailer, to allow specified, authorized third parties, which may not be a competitor market, to accept SNAP benefits on behalf of the market's 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.

The bill does not apply to a market selling fresh produce whose owner or operator has a system in place for accepting SNAP benefits nor does it prohibit an authorized Food and Nutrition Service produce seller from operating its own EBT system for its customers' transactions. Finally, the bill does not require a market owner or operator to create, operate, or maintain an EBT system on behalf of its produce sellers.

**Section 2** provides that this bill takes effect on July 1, 2016.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

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<sup>9</sup> See <http://southfpa.blogspot.com/> (last visited October 26, 2015).

<sup>10</sup> See SB 552 by Senator Thompson from the 2014 Legislative Session.

**B. Private Sector Impact:**

SNAP beneficiaries will be able to use their EBT cards to purchase fresh produce at additional markets if markets selling fresh produce allow an EBT system to be established in their marketplace. Food and Nutrition Service groups, associations, or other specified parties that are authorized SNAP retailers may be able to offer EBT services at participating fresh produce markets.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates an unnumbered section of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.