Regular Session, 2012

HOUSE BILL NO. 95

BY REPRESENTATIVES HENRY, ADAMS, ARNOLD, STUART BISHOP, BROWN, HENRY BURNS, CHAMPAGNE, GAROFALO, GISCLAIR, GREENE, HAVARD, HENSGENS, HILL, HODGES, HOFFMANN, HOLLIS, LEOPOLD, LIGI, LOPINTO, LORUSSO, MACK, JAY MORRIS, PUGH, PYLANT, REYNOLDS, RICHARD, SEABAUGH, TALBOT, THOMPSON, AND WHITNEY

WELFARE: Prohibits Family Independence Temporary Assistance Program (FITAP) benefits from being drawn at ATMs, utilized for the purchase of alcohol or tobacco, and remitted at gaming establishments and sexually oriented businesses

1	AN ACT
2	To amend and reenact R.S. 46:231.13 and 450.1(B)(6) and (C)(3) and to enact R.S.
3	46:231(15) and (16), 231.2.1, and 450.1(C)(4) and (5), relative to aid to needy
4	families; to provide for the Family Independence Temporary Assistance Program;
5	to prohibit certain uses of Family Independence Temporary Assistance Program
6	benefits; to provide limitations on retailers participating in the cash assistance
7	electronic benefits transfer system; to provide for definitions; to authorize
8	promulgation of rules; and to provide for related matters.
9	Be it enacted by the Legislature of Louisiana:
10	Section 1. R.S. 46:231.13 and 450.1(B)(6) and (C)(3) are hereby amended and
11	reenacted and R.S. 46:231(15) and (16), 231.2.1, and 450.1(C)(4) and (5) are hereby enacted
12	to read as follows:
13	§231. Aid to needy families; definitions
14	As used in this Subpart, unless the context clearly requires otherwise:
15	* * *
16	(15) "Gaming establishment" means any establishment which provides
17	gaming activities which are subject to regulation by the Louisiana Gaming Control
18	Board.

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(16) "Sexually oriented business" means any commercial enterprise which
2	has as its primary business the offering of a service or the sale, rent, or exhibit of
3	devices or any other items intended to provide sexual stimulation or sexual
4	gratification to the customer.
5	* * *
6	§231.2.1. Prohibition on use of benefits; exceptions
7	A. Notwithstanding any federal law, regulation, or rule to the contrary, the
8	department shall develop and maintain such policies as are necessary to ensure the
9	following:
10	(1) That no FITAP assistance is used in any transaction in a gaming
11	establishment or sexually oriented business.
12	(2) That no FITAP assistance issued on an electronic benefits transfer card
13	is drawn in the form of cash from an automated teller machine or a retailer.
14	(3) That no FITAP assistance is remitted at any retailer for the purchase of
15	any of the following:
16	(a) An alcoholic beverage as defined in R.S. 14:93.10(3).
17	(b) A tobacco product as defined in R.S. 14:91.6(B).
18	B. Nothing in this Subpart shall prohibit the remittance of FITAP assistance
19	for the purpose of obtaining a cashiers check, certified check, or money order.
20	* * *
21	§231.13. Retailer fees for access Access to cash assistance benefits at retailers;
22	prohibition on obtaining cash; penalties
23	Retailers A. No retailer participating in the cash assistance electronic
24	benefits transfer system are not prohibited from charging or assessing a fee against
25	cash assistance recipients who are accessing benefits for the sole purpose of
26	obtaining cash. Such fee shall not exceed the retailer's normal and customary check
27	cashing fee assessed against the general public. Retailers shall not establish
28	maximum limits for recipient access to cash assistance benefits. shall allow a cash
29	assistance recipient to obtain cash through the use of an electronic benefits transfer

1	card, or to remit cash assistance for the purchase of any prohibited item as provided
2	<u>in R.S. 46:231.2.1.</u>
3	B. Any retailer participating in the cash assistance electronic benefits
4	transfer system who violates a provision of this Section shall be subject to the
5	following penalties:
6	(1) A retailer who allows cash assistance to be used for a purpose prohibited
7	pursuant to the provisions of this Section shall be disqualified from participation in
8	the cash assistance electronic benefits transfer system for a period not to exceed six
9	months.
10	(2) A retailer who allows cash assistance to be used for a purpose prohibited
11	pursuant to the provisions of this Section, and the ownership of the retail
12	establishment approved of or was involved in the conduct of the violation, shall be
13	disqualified from participation in the cash assistance electronic benefits transfer
14	system for a period not to exceed one year.
15	* * *
16	§450.1. Electronic authorization and distribution of public assistance benefits and
17	services
18	* * *
19	B. The contract program selected to provide the electronic issuance system
20	shall include but not be limited to:
21	* * *
22	(6) Provision, installation, and maintenance of automated teller machines,
23	point of sale terminals, printers, and personal identification number "PIN" pads in
24	the parish offices, in retail establishments which accept food stamps, and in other
25	appropriate locations of participants in the program.
26	C. The contract program shall also:
27	* * *
28	(3) Provide that the cash back provisions of the electronic issuance system
29	shall not allow the merchant to charge the recipient reasonable and customary
30	charges for the provision of provide any cash back services.

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1	(4) Ensure that no gaming establishment or sexually oriented business as
2	defined in R.S. 46:231 participates as a merchant in the electronic issuance system.
3	(5) Ensure that no FITAP assistance is remitted at any participating retailer
4	for the purchase of any of the following:
5	(a) An alcoholic beverage as defined in R.S. 14:93.10(3).
6	(b) A tobacco product as defined in R.S. 14:91.6(B).
7	* * *
8	Section 2. The Department of Children and Family Services shall promulgate, in
9	accordance with the Administrative Procedure Act, all rules necessary to implement the
10	provisions of this Act before February 1, 2013.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Henry

HB No. 95

Abstract: Prohibits Family Independence Temporary Assistance Program (FITAP) benefits from being drawn at ATMs, utilized for the purchase of alcohol or tobacco, and remitted at gaming establishments or sexually oriented businesses.

<u>Present law</u> provides that the Family Independence Temporary Assistance Program (FITAP) is the cash assistance program for needy families of this state established pursuant to the Federal Welfare Reform Act of 1996.

<u>Proposed law</u> provides the following definitions:

- (1) "Gaming establishment" means any establishment which provides gaming activities which are subject to regulation by the La. Gaming Control Board.
- (2) "Sexually oriented business" means any commercial enterprise which has as its primary business the offering of a service or the sale, rent, or exhibit of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

<u>Proposed law</u> provides that the Dept. of Children and Family Services (DCFS) shall ensure that no FITAP assistance is used in any transaction in a gaming establishment or sexually oriented business. Provides that DCFS shall ensure that no FITAP assistance issued on an electronic benefits transfer card is drawn in the form of cash from an automated teller machine or a retailer. Provides further that no FITAP assistance shall be remitted at any retailer for the purchase of an alcoholic beverage or tobacco product.

<u>Proposed law</u> provides the following penalties for violations by retailers of proposed law:

- (1) A retailer who allows cash assistance to be used for a purpose prohibited by <u>proposed law</u> shall be disqualified from participation in the cash assistance electronic benefits transfer system for a period not to exceed six months.
- (2) A retailer who allows cash assistance to be used for a purpose prohibited by <u>proposed law</u>, and the ownership of the retail establishment approved of or was involved in the conduct of the violation, shall be disqualified from participation in the cash assistance electronic benefits transfer system for a period not to exceed one year.

<u>Present law</u> provides that retailers participating in the cash assistance electronic benefits transfer (EBT) system are not prohibited from charging or assessing a fee against cash assistance recipients who are accessing benefits for the sole purpose of obtaining cash. <u>Proposed law</u> amends <u>present law</u> to provide that no retailer participating in the cash assistance EBT system shall allow a cash assistance recipient to obtain cash through the use of an electronic benefits transfer card.

<u>Proposed law</u> deletes <u>present law</u> which provides that the contract program selected by DCFS to provide the electronic benefits issuance system shall install and maintain automated teller machines in DCFS parish offices, in retail establishments which accept food stamps, and in other appropriate locations of participants in the program.

<u>Present law</u> provides that the contract program selected by DCFS to provide the electronic benefits issuance system shall ensure that such system allows the merchant to charge the recipient reasonable and customary charges for the provision of cash back services. <u>Proposed law</u> amends <u>present law</u> to provide that such system shall not allow a merchant to provide any cash back services.

<u>Proposed law</u> provides that the contract program selected by DCFS to provide the electronic benefits issuance system shall ensure that no gaming establishment or sexually oriented business as defined in <u>proposed law</u> participates as a merchant in the system. Provides that such contract program also ensure that no FITAP assistance is remitted at any participating retailer for the purchase of an alcoholic beverage or tobacco product.

<u>Proposed law</u> provides that DCFS shall promulgate, in accordance with the Administrative Procedure Act, all rules necessary to implement the provisions of <u>proposed law</u> by Feb. 1, 2013.

(Amends R.S. 46:231.13 and 450.1(B)(6) and (C)(3); Adds R.S. 46:231(15) and (16), 231.2.1, and 450.1(C)(4) and (5))

Summary of Amendments Adopted by House

Committee Amendments Proposed by <u>House Committee on Health and Welfare</u> to the <u>original</u> bill.

- 1. Added provision to <u>proposed law</u> which prohibits remittance of FITAP assistance to any retailer for the purchase of an alcoholic beverage.
- 2. Made technical change.

House Floor Amendments to the engrossed bill.

- 1. Deleted definition of liquor store from <u>proposed law</u>.
- 2. Eliminated a liquor store, as defined in <u>proposed law</u>, as a place where the use of FITAP assistance would be prohibited.

- 3. Added provision to <u>proposed law</u> prohibiting remittance of FITAP assistance to any retailer for the purchase of a tobacco product.
- 4. Provided that nothing in <u>present law</u> or <u>proposed law</u> shall prohibit the remittance of FITAP assistance for the purpose of obtaining a cashiers check, certified check, or money order.
- 5. Provided the following penalties for violations by retailers of proposed law:
 - (a) A retailer who allows cash assistance to be used for a purpose prohibited by <u>proposed law</u> shall be disqualified from participation in the cash assistance electronic benefits transfer system for a period not to exceed six months.
 - (b) A retailer who allows cash assistance to be used for a purpose prohibited by <u>proposed law</u>, and the ownership of the retail establishment approved of or was involved in the conduct of the violation, shall be disqualified from participation in the cash assistance electronic benefits transfer system for a period not to exceed one year.
- 6. Added requirement that DCFS shall promulgate all rules necessary to implement the provisions of <u>proposed law</u> before Feb. 1, 2013.
- 7. Made technical changes.