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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO HUMAN SERVICES - PUBLIC ASSISTANCE ACT

Introduced By: Representatives Morgan, Reilly, Giarrusso, Nardolillo, and Roberts

Date Introduced: January 29, 2015

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 40 of the General Laws entitled "HUMAN SERVICES" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 6.7

4 PURCHASE OF ALCOHOLIC BEVERAGES, LOTTERY TICKETS, OR TOBACCO WITH

5 DIRECT CASH ASSISTANCE FUNDS

6 **40-6.7-1. Definitions.** – As used in this chapter, the following terms shall, unless the
7 context clearly requires otherwise, have the following meanings:

8 (1) "Access device" means a card, code, or other means of access that can be used alone
9 or in conjunction with another access device, to obtain payments, allotments, benefits, money,
10 goods, or other things of value, or that can be used to initiate a transfer of funds under the federal
11 Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq., or regulations issued pursuant to the
12 federal Food and Nutrition Act of 2008.

13 (2) "Direct cash assistance" means any manner of cash assistance provided by the
14 department of transitional assistance, including, but not limited to, temporary aid to families with
15 dependent children, wherein the assistance is provided directly to the recipient, rather than a
16 vendor.

17 (3) "Electronic benefit transfer card" means a card that provides benefits through an
18 electronic benefit transfer.

19 (4) "Electronic benefit transfer transaction" means the use of a credit or debit card

1 service, automated teller machine, point-of-sale terminal or access to an online system for the
2 withdrawal of funds or the processing of a payment for merchandise or a service.

3 (5) "Vacation services" means furnishing interstate or foreign travel services solely for
4 the purpose of recreation, including, but not limited to transportation, lodging and travel agent
5 services; provided, however, that vacation services shall not include travel related to: a personal
6 or family emergency, the death of a family member, employment, medical treatment, appearance
7 before a court of law, court-authorized parental visitation and such other categories of travel
8 which may be designated, from time to time, by the department as non-recreational travel.

9 **40-6.7-2. Prohibited transactions.** – No person shall knowingly use or accept direct
10 cash assistance funds held on electronic benefit transfer cards or access devices for the purchase
11 or sale of the following services or products: alcoholic beverages as defined in § 44-18-7.1;
12 lottery tickets; tobacco products as identified in chapter 20 of title 44; visual material or
13 performances intended to create or simulate sexual conduct or sexual excitement as those terms
14 are defined in § 11-31-1; firearms and ammunition as defined in § 11-47-2; vacation services;
15 tattoos or body piercings; jewelry; for gambling or for the payment to the state or any political
16 subdivision thereof of any fees, fines, bail, or bail bonds ordered by a court.

17 **40-6.7-3. Penalties.** – Any eligible recipient of direct cash assistance who knowingly
18 makes a prohibited purchase in violation of this section shall reimburse the department for such
19 purchase and, for the second offense, shall be disqualified from the direct cash assistance program
20 for a period of two (2) months, and, for the third offense, shall be disqualified from the direct
21 cash assistance program permanently; provided, however, that the department shall only
22 disqualify an eligible recipient after notice and a hearing.

23 **40-6.7-4. Electronic benefit transfers.** – (a) The department shall maintain policies and
24 practices as necessary to prevent cash assistance provided under this chapter from being used in
25 any electronic benefit transfer transaction at: liquor stores; casinos, gambling casinos, or gaming
26 establishments; retail establishments which provide adult-oriented entertainment in which
27 performers disrobe or perform in an unclothed state for entertainment, as defined in section
28 408(a) of the Social Security Act, as amended; adult bookstores or adult paraphernalia stores;
29 firearms dealers; tattoo parlors; manicure shops or aesthetic shops; jewelry stores; or on cruise
30 ships. Such establishments shall not accept electronic benefits transfer cards. A store owner who
31 knowingly allows a prohibited electronic benefits transfer transaction in violation of this section
32 or § 40-6.7-2 shall be punished by a fine of not more than five hundred dollars (\$500) for a first
33 offense, by a fine of not less than five hundred dollars (\$500) nor more than two thousand five
34 hundred dollars (\$2,500) for a second offense and by a fine of not less than two thousand five

1 hundred dollars (\$2,500) for a third or subsequent offense.

2 (b) A store owner who knowingly violates this section and who also possesses a license
3 to sell alcoholic beverages under chapter 7 of title 3 shall be referred to the appropriate licensing
4 authority for possible disciplinary action.

5 (c) A store owner who knowingly violates this section and who also possesses a license
6 to sell lottery tickets under § 42-61-5 shall be referred to the director of the state lottery for
7 possible disciplinary action.

8 **40-6.7-5. Food stamp trafficking.** – (a) As used in this section, "food stamp benefits"
9 means benefits issued pursuant to the federal Food and Nutrition Act of 2008, 7 U.S.C. 2011 to
10 2029, inclusive, as amended, including such benefits contained on an electronic benefit transfer
11 card.

12 (b) An individual commits the offense of food stamp benefits trafficking if the individual
13 knowingly:

14 (1) Presents for payment or redemption or transfers food stamp benefits in any form,
15 including transfers to another, who does not, or does not intend to, use the food stamp benefits for
16 the benefit of the household for whom the benefits were intended, as defined in the regulations of
17 the department; or

18 (2) Possesses, buys, sells, uses, alters, accepts, or transfers food stamp benefits in any
19 manner not authorized by the Food and Nutrition Act of 2008, 7 U.S.C. 2011, as amended.

20 (c) An individual who traffics food stamp benefits, as described in subsection (b) shall:

21 (1) If the food stamp benefits are of a value of less than two hundred fifty dollars (\$250)
22 or if the item used, transferred, acquired, altered, or possessed has a value of less than two
23 hundred fifty dollars (\$250), be punished by imprisonment in a jail or house of correction for not
24 more than one year or by a fine of not more than one thousand dollars (\$1,000), or both such fine
25 and imprisonment; or

26 (2) If the food stamp benefits are of a value of two hundred fifty dollars (\$250) or more
27 or the item used, transferred, acquired, altered, or possessed has a value of two hundred fifty
28 dollars (\$250) or more, be punished by imprisonment in a jail or house of correction for not more
29 than two (2) years or by imprisonment in a state prison for not more than five (5) years or by a
30 fine of not more than five thousand dollars (\$5,000), or both fine and imprisonment.

31 (d) If a person is alleged to have committed the offense of trafficking in food stamp
32 benefits two (2) or more times within a six (6) month period, those offenses may be aggregated
33 and charged in a single count and the offenses so aggregated and charged shall constitute a single
34 offense; provided, however, that, if the aggregate value of the food stamp benefits alleged to be

1 trafficked is two hundred fifty dollars (\$250) or more, the person shall be subject to the penalties
2 prescribed in § 40-6.7-5(c)(2).

3 (e) Crimes under this section may be prosecuted and punished in any county where a
4 defendant used, transferred, acquired, or possessed food stamp benefits or in the county in which
5 the state agency responsible for administering food stamp benefits is headquartered.

6 **40-6.7-6. Penalties for organizations.** – (a) As used in this section, "organization" shall
7 mean a corporation for profit or not-for-profit, partnership, limited partnership, joint venture,
8 unincorporated association, estate, trust, or other commercial or legal entity; provided, however,
9 that "organization" shall not include an entity organized as or by a governmental agency for the
10 execution of a governmental program.

11 (b) An organization commits the offense of organizational food stamp benefits trafficking
12 if the organization knowingly:

13 (1) Uses, sells, transfers, acquires, alters, or possesses food stamp benefits or electronic
14 benefit transfer cards in any manner not authorized by the Food and Nutrition Act of 2008, 7
15 U.S.C. 2011, as amended, or the regulations of the department; or

16 (2) Presents for payment or redemption food stamp benefits that have been received,
17 transferred, altered, or used in violation of this section shall be guilty of organizational food
18 stamp benefits trafficking.

19 (c) If an organization is alleged to have committed the offense of organizational food
20 stamp benefits trafficking two (2) or more times within a six (6) month period, any of those
21 offenses may be aggregated and charged in a single count and the offenses so aggregated and
22 charged shall constitute a single offense.

23 (d) An organization that commits food stamp benefits trafficking as described in
24 subsection (c) shall:

25 (1) If it is the organization's first offense under this section, be punished by a fine of not
26 less than five thousand dollars (\$5,000);

27 (2) If it is the organization's second offense under this section, be punished by a fine of
28 not less than ten thousand dollars (\$10,000); or

29 (3) If it is the organization's third or subsequent offense under this section, be punished
30 by a fine of not less than fifty thousand dollars (\$50,000).

31 (e) A retail or wholesale organization owner who is convicted of organizational food
32 stamp benefits trafficking and who also possesses a license to sell alcoholic beverages under
33 chapter 7 of title 3 shall be referred to the appropriate licensing authority for possible disciplinary
34 action.

1 (f) A retail or wholesale organization owner who is convicted of organizational food
2 stamp benefits trafficking and who also possesses a license to sell lottery tickets under § 42-61-5
3 shall be referred to the director of the state lottery for possible disciplinary action.

4 (g) Crimes under this section may be prosecuted and punished in any county where
5 defendant used, transferred, acquired, or possessed food stamp benefits.

6 **40-6.7-7. Duties of department.** – The department shall develop and make available on
7 its website for download a sign specifying the department's fraud hotline. Business associations
8 may also maintain a downloadable form of the sign on the business associations' websites. Such
9 sign shall be posted in a conspicuous area in any business accepting electronic benefits transfer
10 cards as a form of payment. Any business accepting electronic benefit transfer cards as a form of
11 payment shall maintain a list of categories of prohibited products under this chapter at each cash
12 register.

13 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HUMAN SERVICES - PUBLIC ASSISTANCE ACT

1 This act would prohibit eligible recipients of direct cash assistance from using direct cash
2 assistance funds for the purchase of alcoholic beverages, lottery tickets, or tobacco products. It
3 further requires eligible recipients of direct cash assistance who make a purchase in violation of
4 this act to reimburse the department for such purchases.

5 This act would take effect upon passage.

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