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## DIGEST

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Broadwater

HB No. 1176

**Abstract:** Provides for restrictions on use of cash assistance benefits delivered through the Family Independence Temporary Assistance Program and the Kinship Care Subsidy Program; and for restrictions on use by recipients and acceptance by businesses of electronic benefits transfer (EBT) cards.

Present law provides for duties and functions of the Department of Children and Family Services (DCFS) in administering the following cash assistance programs of the Temporary Assistance for Needy Families block grant:

- (1) Family Independence Temporary Assistance Program (FITAP), which provides cash assistance to needy families for the purpose of assisting those families in meeting basic needs.
- (2) Kinship Care Subsidy Program (KCSP), which provides cash assistance for financially needy kinship caregivers, including grandparents, step-grandparents, and other adult relatives within the fifth degree of consanguinity who have legal custody or guardianship of minor relatives.

Proposed law retains present law and adds thereto the following definitions:

- (1) "Adult paraphernalia store" means an establishment that has as a substantial or significant portion of its stock clothing, objects, tools, toys, or any other items distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement.
- (2) "Amusement attraction" means a movie theater, video arcade, or any other building, structure, or place in which activities providing amusement, pleasure, thrills, or excitement are offered. "Amusement attraction" does not include any enterprise principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts.
- (3) "Amusement ride" means any mechanized device or combination of devices which carries passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. "Amusement ride" includes inflatables.

- (4) "Bail" means security given by a person to assure his appearance, or the appearance of a third party, before the proper court whenever required.
- (5) "Bar" means a business that holds a Class A-General retail permit and the primary purpose of such business is to serve alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages.
- (6) "Commercial body art facility" means any location, place, area, or business, whether permanent or temporary, that provides consumers access to personal services workers who for remuneration perform any of the following procedures:
  - (a) Tattooing or inserting pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce an indelible mark or figure visible under the skin.
  - (b) Body piercing or the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration; with the exception of piercing an ear with a disposable, single-use stud or solid needle applied using a mechanical device to force the needle or stud through the ear.
  - (c) Application of permanent cosmetics or pigments under the skin of a human being for the purpose of permanently changing the color or other appearance of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.
- (7) "Cruise ship" means any commercial ship used for the domestic or international carriage of passengers.
- (8) "Gaming establishment" means a gambling casino and any other establishment which provides gaming activities that are subject to regulation by the Louisiana Gaming Control Board. "Gaming establishment" does not include either of the following:
  - (a) A grocery store that sells groceries including staple foods and that also offers, or is located within the same building or complex as, casino activities, gambling, or gaming activities.
  - (b) Any establishment that offers casino, gambling, or gaming activities that are incidental to the principal purpose of the business.
- (9) "Jewelry" means an object or thing consisting of precious stones or precious metals worn as adornment or apparel, including costume jewelry.
- (10) "Liquor store" means any retail establishment that sells exclusively or primarily intoxicating liquor, but does not include a grocery store that sells both intoxicating liquor and groceries, including staple foods.

- (11) "Nail salon" means a commercial establishment that provides nail services of any kind including but not limited to trimming, filing, decorating, shaping, sculpting, or in any way caring for the nails and skin of a person's hands or feet together with massaging the hands, arms, legs, and feet.
- (12) "Psychic" means any person or establishment engaged in the occupation of occult science including a fortune teller, palmist, astrologist, numerologist, clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader, prophet, or advisor who in any manner claims or pretends to tell fortunes or claims or pretends to disclose mental faculties of individuals for any form of compensation.
- (13) "Sexually oriented business" means any commercial enterprise that 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.

Proposed law prohibits FITAP beneficiaries and KCSP beneficiaries from expending cash assistance in an electronic benefits transfer transaction at any of the following places: Liquor store; gaming establishment; retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment purposes; adult bookstore; adult paraphernalia store; sexually oriented business; commercial body art facility; nail salon; jewelry store; amusement ride; amusement attraction; bail bonds company; bar; cruise ship; psychic business; any establishment where persons under 18 are not permitted to enter.

Proposed law further prohibits FITAP beneficiaries and KCSP beneficiaries from expending cash assistance benefits in any electronic benefits transfer transaction at a retailer for the purchase of any of the following:

- (1) An alcoholic beverage as defined in present law, R.S. 14:93.10.
- (2) A tobacco product as defined in present law, R.S. 14:91.6(B).
- (3) A ticket for a lottery as defined in present law, R.S. 47:9002.
- (4) Jewelry as defined in proposed law.

Proposed law authorizes DCFS to close the FITAP case of any recipient who violates the provisions of proposed law in accordance with the following schedule:

- (1) Case closure for a period of 12 months for the first violation.
- (2) Case closure for a period of 24 months for the second violation.
- (3) Permanent case closure for the third violation.

Proposed law provides that a cash assistance recipient whose case is closed pursuant to proposed

law shall have the right to a hearing conducted in accordance with the Administrative Procedure Act.

Present law provides relative to retailers and other business establishments that participate in the cash assistance electronic benefits transfer system. Proposed law retains present law and adds thereto a prohibition on such businesses accepting the electronic benefits transfer card in payment for any of the following:

- (1) An alcoholic beverage as defined in present law, R.S. 14:93.10.
- (2) A tobacco product as defined in present law, R.S. 14:91.6(B).
- (3) A ticket for a lottery as defined in present law, R.S. 47:9002.
- (4) Jewelry as defined in proposed law.

Proposed law prohibits the following retailers and business establishments from conducting any electronic benefits transfer transaction: liquor store; gaming establishment; retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment purposes; adult bookstore; adult paraphernalia store; sexually oriented business; commercial body art facility; nail salon; jewelry store; amusement ride; amusement attraction; bail bonds company; bar; cruise ship; psychic business; any establishment where persons under 18 are not permitted to enter.

With the exception of businesses approved as retailers in the Supplemental Nutrition Assistance Program of this state, proposed law requires each business that is subject to the prohibitions of proposed law and has an automated teller machine or point-of-sale terminal on its premises to disable access to electronic cash assistance benefits through such machine or terminal.

Proposed law provides that any business that violates proposed law shall be subject to the following civil fines:

- (1) \$500 for the first violation.
- (2) \$1,000 for the second violation.
- (3) \$2,500 for the third violation and each violation thereafter.

Proposed law requires DCFS to promulgate rules and regulations to effectuate the provisions of proposed law. Stipulates that the rules and regulations shall provide, at minimum, for notice to a retailer or other business establishment of any violation, and for an appeal procedure including judicial review.

Proposed law establishes that the appeal procedure provided for therein shall be suspensive. Provides that each appeal initiated pursuant to proposed law shall be heard by the division of

administrative law in accordance with the applicable provisions of the Administrative Procedure Act.

Proposed law requires the division of administrative law to furnish to DCFS and the retailer or other business a copy of the decision rendered in the appeal and written notice of the manner for requesting judicial review.

Proposed law provides that authority to impose the fines established therein shall commence on the effective date of the rules promulgated pursuant to proposed law.

Proposed law authorizes DCFS to institute any civil court action necessary to collect fines imposed pursuant to proposed law and not timely appealed. Provides that interest shall begin to accrue at the current judicial rate on the day following the date on which any fines become due and payable. Further provides that all costs of any successful action to collect such fines, including travel expenses and reasonable attorney fees, shall be awarded to DCFS in addition to the fines.

Proposed law provides that monies DCFS collects through civil fines imposed pursuant to proposed law shall be deposited in the Fraud Detection Fund established in present law, R.S. 46:114.4. Provides by reference that the monies in the fund may be appropriated by the legislature to DCFS for the enhancement of fraud detection and recovery activities; and that these funds shall not be used to replace, displace, or supplant state general funds appropriated for daily operation of any regional fraud detection activities of the department.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 46:114.4(C), 231, and 237; Adds R.S. 46:231.3 and 231.14)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Health and Welfare to the original bill.

1. Made grammatical change in provision requiring businesses to disable access to cash assistance through automated teller machines and point-of-sale terminals.