

FIRST REGULAR SESSION

# SENATE BILL NO. 251

97TH GENERAL ASSEMBLY

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INTRODUCED BY SENATORS KRAUS AND CHAPPELLE-NADAL.

Read 1st time January 31, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

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## AN ACT

To repeal sections 578.375, 578.377, 578.379, 578.381, 578.383, 578.389, and 578.390, RSMo, and to enact in lieu thereof nine new sections relating to public assistance fraud and abuse, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 578.375, 578.377, 578.379, 578.381, 578.383, 578.389, 2 and 578.390, RSMo, are repealed and nine new sections enacted in lieu thereof, 3 to be known as sections 208.024, 578.375, 578.377, 578.379, 578.381, 578.383, 4 578.389, 578.390, and 578.392, to read as follows:

**208.024. 1. Eligible recipients of temporary assistance for needy 2 families (TANF) benefits shall not use such funds in any electronic 3 benefit transfer transaction in any liquor store, casino, gambling 4 casino, or gaming establishment, any retail establishment which 5 provides adult-oriented entertainment in which performers disrobe or 6 perform in an unclothed state for entertainment, or any place of 7 amusement, entertainment recreation, games or athletic events, 8 including museums, fairs, zoos and planetariums or for the purchase of 9 alcoholic beverages, lottery tickets or tobacco products. An eligible 10 recipient of TANF assistance who makes a purchase in violation of this 11 section shall reimburse the department of social services for such 12 purchase.**

**13 2. An individual, store owner or proprietor of an establishment 14 shall not accept TANF cash assistance funds held on electronic benefit 15 transfer cards for the purchase of alcoholic beverages, lottery tickets, 16 or tobacco products or for use in any electronic benefit transfer**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 transaction in any liquor store, casino, gambling casino, or gaming  
18 establishment, any retail establishment which provides adult-oriented  
19 entertainment in which performers disrobe or perform in an unclothed  
20 state for entertainment, or any place of amusement, entertainment  
21 recreation, games or athletic events, including museums, fairs, zoos and  
22 planetariums. An individual, store owner or proprietor of an  
23 establishment who knowingly accepts electronic benefit transfer cards  
24 in violation of this section shall be punished by a fine of not more than  
25 five hundred dollars for the first offense, a fine of not less than five  
26 hundred dollars nor more than one thousand dollars for the second  
27 offense, and a fine of not less than one thousand dollars for the third  
28 or subsequent offense.

29 **3. For purposes of this section:**

30 **(1) The following terms shall mean:**

31 **(a) "Electronic benefit transfer transaction", the use of a credit**  
32 **or debit card service, automated teller machine, point of sale terminal,**  
33 **or access to an online system for the withdrawal of funds or the**  
34 **processing of a payment for merchandise or a service; and**

35 **(b) "Liquor store", any retail establishment which sells**  
36 **exclusively or primarily intoxicating liquor. Such term does not**  
37 **include a grocery store which sells both intoxicating liquor and**  
38 **groceries including staple foods as outlined under the Food and**  
39 **Nutrition Act of 2008;**

40 **(2) Casinos, gambling casinos, or gaming establishments shall not**  
41 **include:**

42 **(a) A grocery store which sells groceries including staple foods,**  
43 **and which also offers, or is located within the same building or complex**  
44 **as a casino, gambling, or gaming activities; or**

45 **(b) Any other establishment that offers casino, gambling, or**  
46 **gaming activities incidental to the principal purpose of the business.**

578.375. As used in sections 578.375 to [578.389] **578.392**, the following  
2 terms mean:

3 **(1) ["Authorization to participate" or "ATP card", a document which is**  
4 **issued by a state or federal agency to a certified household to show the food**  
5 **stamp allotment the household is authorized to receive on presentation of the**  
6 **document;**

7 **(2) "Department", the Missouri department of social services or any of its**

8 divisions;

9           (2) **"Electronic Benefits Card" or "EBT card", a debit card used to**  
10 **access food stamps or cash benefits issued by the department of social**  
11 **services;**

12           (3) "Employment information", the following facts if reasonably available:  
13 complete name, beginning and ending dates of employment during the most  
14 recent five years, amount of money earned in any month or months during the  
15 most recent five years, last known address, date of birth, and Social Security  
16 account number;

17           (4) "Food [stamp coupons" or "food stamp", any coupon, stamp or other  
18 type of document used or intended for use in the purchase of food pursuant to the  
19 Missouri food stamp program] **stamps", the nutrition assistance program in**  
20 **Missouri that provides food and aid to low-income individuals who are**  
21 **in need of benefits to purchase foods operated by the United States**  
22 **Department of Agriculture (USDA) in conjunction with the department;**

23           (5) "Public assistance **benefits**", anything of value, including money, food,  
24 [ATP] **EBT** cards, food [stamp coupons] **stamps**, commodities, clothing, utilities,  
25 utilities payments, shelter, drugs and medicine, materials, goods, and any service  
26 including institutional care, medical care, dental care, child care, psychiatric and  
27 psychological service, rehabilitation instruction, training, **transitional**  
28 **assistance**, or counseling, received by or paid on behalf of any person under  
29 chapters 198, 205, 207, 208, 209, and 660, or benefits, programs, and services  
30 provided or administered by the [Missouri] department [of social services] or any  
31 of its divisions.

578.377. 1. A person commits the crime of unlawfully receiving [food  
2 stamp coupons or ATP] **public assistance benefits or EBT** cards if he **or she**  
3 knowingly receives or uses the proceeds of [food stamp coupons or ATP] **public**  
4 **assistance benefits or EBT** cards to which he **or she** is not lawfully entitled  
5 or for which he **or she** has not applied and been approved by the department to  
6 receive.

7           2. Unlawfully receiving [food stamp coupons or ATP] **public assistance**  
8 **benefits or EBT** cards is a class D felony unless the face value of the [food  
9 stamp coupon or ATP] **public assistance benefits or EBT** cards is less than  
10 five hundred dollars, in which case unlawful receiving of [food stamp coupons and  
11 ATP] **public assistance benefits or EBT** cards is a class A misdemeanor. **A**  
12 **person who is found guilty of a second offense of unlawfully receiving**

13 **public assistance benefits or EBT cards in an amount less than five**  
14 **hundred dollars shall be guilty of a class D felony. Any person who is**  
15 **found guilty of a second or subsequent offense of felony unlawfully**  
16 **receiving public assistance benefits or EBT cards shall be guilty of a**  
17 **class C felony. Any person who is found guilty of felony unlawfully**  
18 **receiving of public assistance benefits or EBT cards shall serve not less**  
19 **than one hundred twenty days in the department of corrections unless**  
20 **such person pays full restitution to the state of Missouri within thirty**  
21 **days of the date of execution of sentence.**

22 **3. In addition to any criminal penalty, any person found guilty**  
23 **of unlawfully receiving public assistance benefits or EBT cards shall**  
24 **pay full restitution to the state of Missouri for the total amount of**  
25 **monies converted. No person placed on probation for the offense shall**  
26 **be released from probation until full restitution has been paid.**

578.379. 1. A person commits the crime of conversion of [food stamp  
2 coupons or ATP] **public assistance benefits or EBT cards** if he or she  
3 knowingly engages in any transaction to convert [food stamp coupons or ATP]  
4 **public assistance benefits or EBT cards** to other property contrary to  
5 statutes, rules and regulations, either state or federal, governing the [food stamp  
6 program] **use of public assistance benefits.**

7 **2. Unlawful conversion of [food stamp coupons or ATP] public**  
8 **assistance benefits or EBT cards is a class D felony unless the face value of**  
9 **said [food stamp coupons or ATP] public assistance benefits or EBT cards is**  
10 **less than five hundred dollars, in which case unlawful conversion of [food stamp**  
11 **coupons or ATP] public assistance benefits or EBT cards is a class A**  
12 **misdemeanor. A person who is found guilty of a second offense of**  
13 **unlawful conversion of public assistance benefits or EBT cards in an**  
14 **amount less than five hundred dollars shall be guilty of a class D**  
15 **felony. Any person who is found guilty of a second or subsequent**  
16 **offense of felony unlawful conversion of public assistance benefits or**  
17 **EBT cards shall be guilty of a class C felony. Any person who is found**  
18 **guilty of felony unlawful conversion of public assistance benefits or**  
19 **EBT cards shall serve not less than one hundred twenty days in the**  
20 **department of corrections unless such person pays full restitution to**  
21 **the state of Missouri within thirty days of the date of execution of**  
22 **sentence.**

23 **3. In addition to any criminal penalty, any person found guilty**

24 **of unlawful conversion of public assistance benefits or EBT cards shall**  
25 **pay full restitution to the state of Missouri for the total amount of**  
26 **moneys converted. No person placed on probation for the offense shall**  
27 **be released from probation until full restitution has been paid.**

578.381. 1. A person commits the crime of unlawful transfer of [food  
2 stamp coupons or ATP] **public assistance benefits or EBT** cards if he **or she**  
3 knowingly transfers [food stamp coupons or ATP] **public assistance benefits**  
4 **or EBT** cards to another not lawfully entitled or approved by the department to  
5 receive the [food stamp coupons or ATP] **public assistance benefits or EBT**  
6 cards.

7 2. Unlawful transfer of [food stamp coupons] **public assistance benefits**  
8 **or [ATP] EBT** cards is a class D felony unless the face value of said [food stamp  
9 coupons] **public assistance benefits** or [ATP] **EBT** cards is less than five  
10 hundred dollars, in which case unlawful transfer of [food stamp coupons] **public**  
11 **assistance benefits** or [ATP] **EBT** cards is a class A misdemeanor. **A person**  
12 **who is found guilty of a second offense of unlawful transfer of public**  
13 **assistance benefits or EBT cards in an amount less than five hundred**  
14 **dollars shall be guilty of a class D felony. Any person who is found**  
15 **guilty of a second or subsequent offense of felony unlawful transfer of**  
16 **public assistance benefits shall be guilty of a class C felony. Any**  
17 **person who is found guilty of felony unlawful transfer of public**  
18 **assistance benefits or EBT cards shall serve not less than one hundred**  
19 **twenty days in the department of corrections unless such person pays**  
20 **full restitution to the state of Missouri within thirty days of the date of**  
21 **execution of sentence.**

22 3. In addition to any criminal penalty, any person found guilty  
23 **of unlawful transfer of public assistance benefits or EBT cards shall**  
24 **pay full restitution to the state of Missouri for the total amount of**  
25 **moneys converted. No person placed on probation for the offense shall**  
26 **be released from probation until full restitution has been paid.**

578.383. The face value of [all food stamp coupons or ATP] **public**  
2 **assistance benefits or EBT** cards stolen, possessed, transferred or converted  
3 from one scheme or course of conduct, whether from one or several rightful  
4 possessors, or at the same or different times shall constitute a single criminal  
5 episode and their face values may be aggregated in determining the grade of  
6 offense.

578.389. 1. Every person who has been previously convicted of two  
2 violations in [section 578.377, 578.379, 578.381, 578.383,] **sections 578.385[,] or**  
3 **578.387, [or 578.389]** or any two of them shall, upon a subsequent conviction of  
4 any of these offenses, be guilty of a class C felony and shall be punished  
5 accordingly.

6 2. Evidence of prior convictions shall be heard by the court, out of the  
7 hearing of the jury, prior to the submission of the case to the jury, and the court  
8 shall determine the existence of the prior convictions.

578.390. The [office of the attorney general] **department** shall establish  
2 and maintain a statewide toll-free telephone service which shall be operated [on  
3 a sixteen-hour schedule] **eight hours per day** during the work week [and an  
4 eight-hour schedule on weekends and holidays] to receive complaints of a  
5 suspected [welfare] **public assistance** fraud. This service shall receive reports  
6 over a single statewide toll-free number.

**578.392. The department shall study analytical modeling-based**  
2 **methods of detecting fraud and issue a report to the general assembly**  
3 **and governor by December 1, 2013, relating to the benefits and**  
4 **limitations of such a model, experiences in other states using such a**  
5 **model, and estimated costs for implementation.**

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