

Regular Session, 2014

HOUSE BILL NO. 1176

BY REPRESENTATIVE BROADWATER

TANF: Provides for restrictions on use of TANF cash assistance and electronic benefits transfer (EBT) cards

AN ACT

To amend and reenact R.S. 46:114.4(C), 231, and 237 and to enact R.S. 46:231.3 and 231.14, relative to aid to needy families; to provide for duties and functions of the Department of Children and Family Services in administering cash assistance provided through the Temporary Assistance for Needy Families program; to provide for restrictions on uses of Family Independence Temporary Assistance Program benefits and Kinship Care Subsidy Program benefits; to restrict uses of electronic benefits transfer cards; to establish certain restrictions and prohibitions on retailers and other businesses participating in the electronic benefits transfer system; to provide for penalties; to provide for appeals; to provide relative to the Fraud Detection Fund; to provide for definitions; to authorize promulgation of rules; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 46:114.4(C), 231, and 237 are hereby amended and reenacted and R.S. 46:231.3 and 231.14 are hereby enacted to read as follows:

§114.4. Fraud Detection Fund

* * *

C.(1) After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund,

1 and prior to monies being placed in the state general fund, the following amounts
2 shall be credited to the fund:

3 (a) ~~An an~~ amount equal to that deposited as required by Subsection B of this
4 Section ~~shall be credited to the fund.~~

5 (b) An amount equal to that deposited in accordance with R.S. 46:231.14(G).

6 (2) The monies in this fund shall be used solely as provided by Subsection
7 D hereof and only in the amounts appropriated by the legislature. The monies in this
8 fund shall be invested by the state treasurer in the same manner as monies in the state
9 general fund, and interest earned on the investment of these monies shall be credited
10 to this fund, again, following compliance with the requirement of Article VII,
11 Section 9(B) of the Constitution of Louisiana relative to the Bond Security and
12 Redemption Fund.

13 * * *

14 §231. Aid to needy families; definitions

15 As used in this Subpart, unless the context clearly requires otherwise:

16 (1) "Adult paraphernalia store" means an establishment that has as a
17 substantial or significant portion of its stock clothing, objects, tools, toys, or any
18 other items distinguished or characterized by their association with sexual activity,
19 including sexual conduct or sexual excitement.

20 (2)(a) "Amusement attraction" means a movie theater, video arcade, or any
21 other building, structure, or place in which activities providing amusement, pleasure,
22 thrills, or excitement are offered.

23 (b) "Amusement attraction" does not include any enterprise principally
24 devoted to the exhibition of products of agriculture, industry, education, science,
25 religion, or the arts.

26 (3) "Amusement ride" means any mechanized device or combination of
27 devices which carries passengers along, around, or over a fixed or restricted course
28 for the purpose of giving its passengers amusement, pleasure, thrills, or excitement.
29 "Amusement ride" includes inflatables.

1 ~~(4)~~ (4) "Applicant" means a parent or relative of the parent who applies for
2 FITAP on behalf of a child.

3 (5) "Automated teller machine" means an electronic hardware device owned
4 or operated by or on behalf of a financial institution or retailer that is capable of
5 dispensing currency and responding to balance inquiries through the use of a
6 magnetic stripe card issued by or on behalf of the state for distribution of assistance
7 through an electronic benefits transfer system as described in this Subpart.

8 (6) "Bail" means security given by a person to assure his appearance, or the
9 appearance of a third party, before the proper court whenever required.

10 (7) "Bar" means a business that holds a Class A-General retail permit and the
11 primary purpose of such business is to serve alcoholic beverages for consumption by
12 guests on the premises and in which the serving of food is only incidental to the
13 consumption of those beverages. Bars include, without limitation, taverns, saloons,
14 nightclubs, cocktail lounges, and cabarets.

15 (8) "Cash assistance" means funds that the department provides through the
16 Family Independence Temporary Assistance Program and the Kinship Care Subsidy
17 Program to eligible beneficiaries for the purpose of assisting those persons in
18 meeting ongoing basic needs.

19 (9) "Commercial body art facility" means any location, place, area, or
20 business, whether permanent or temporary, that provides consumers access to
21 personal services workers who for remuneration perform any of the following
22 procedures:

23 (a) Tattooing or inserting pigment under the surface of the skin of a human
24 being, by pricking with a needle or otherwise, to produce an indelible mark or figure
25 visible under the skin.

26 (b) Body piercing or the creation of an opening in the body of a human being
27 for the purpose of inserting jewelry or other decoration. For purposes of this
28 Subpart, "body piercing" does not include piercing an ear with a disposable, single-

1 use stud or solid needle that is applied using a mechanical device to force the needle
2 or stud through the ear.

3 (c) Application of permanent cosmetics or pigments under the skin of a
4 human being for the purpose of permanently changing the color or other appearance
5 of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.

6 (10) "Cruise ship" means any commercial ship used for the domestic or
7 international carriage of passengers.

8 ~~(3)~~ (11) "Department" means the Department of Children and Family
9 Services.

10 ~~(4)~~ (12) "Dependent child", in accordance with federal law and regulations
11 relative to the TANF program, shall mean a needy child who meets all of the
12 following criteria:

13 (a) A needy child under the age of eighteen or needy child under the age of
14 nineteen who is a full-time student in a secondary school, or in the equivalent level
15 of vocational or technical training, who may reasonably be expected to complete the
16 program of such secondary school or training before attaining the age of nineteen.

17 (b) The child is living with his father, mother, stepfather, stepmother, or
18 other relative, within fifth degree, in a place of residence maintained by one or more
19 of such relatives as his or their own home. For the purposes of this Subpart, all such
20 persons shall be deemed as relatives, whether their relationship to the dependent
21 child was acquired by adoption, marriage, or birth, and neither divorce nor death
22 shall terminate such relationship.

23 (13) "Electronic benefits transfer transaction" and "EBT transaction" mean
24 the use of a credit or debit card service, automated teller machine, point-of-sale
25 terminal, or access to an online system for the withdrawal of funds.

26 ~~(5)~~ (14) "Family Independence Temporary Assistance Program" or "FITAP"
27 means the cash assistance program.

28 ~~(6)~~ (15) "Family Success Agreement" means the mutually developed
29 contract between a FITAP recipient, on behalf of their family, and the department

1 that sets forth mutual and time-bound responsibilities, expectations, activities, and
2 goals designed to transition a participant from welfare to self-sufficiency.

3 ~~(7)~~ (16) "Federal Welfare Reform Act" means the federal Personal
4 Responsibility and Work Opportunity Reconciliation (PRWORA) Act of 1996,
5 Public Law 104-193, and applicable changes due to its reauthorization.

6 (17)(a) "Gaming establishment" means a gambling casino and any other
7 establishment which provides gaming activities that are subject to regulation by the
8 Louisiana Gaming Control Board.

9 (b) "Gaming establishment" does not include either of the following:

10 (i) A grocery store that sells groceries including staple foods and that also
11 offers, or is located within the same building or complex as, casino activities,
12 gambling, or gaming activities.

13 (ii) Any establishment that offers casino, gambling, or gaming activities that
14 are incidental to the principal purpose of the business.

15 (18) "Jewelry" means an object or thing consisting of precious stones or
16 precious metals worn as adornment or apparel, including costume jewelry.

17 (19)(a) "Liquor store" means any retail establishment that sells exclusively
18 or primarily intoxicating liquor.

19 (b) "Liquor store" does not include a grocery store that sells both
20 intoxicating liquor and groceries, including staple foods.

21 (20) "Nail salon" means a commercial establishment that provides nail
22 services of any kind including but not limited to trimming, filing, decorating,
23 shaping, sculpting, or in any way caring for the nails and skin of a person's hands or
24 feet together with massaging the hands, arms, legs, and feet.

25 (21) "Point-of-sale terminal" means an electronic hardware device that meets
26 all of the following criteria:

27 (a) May be utilized at a retailer's place of business where consumers pay for
28 goods or services.

29 (b) Is capable of the following:

1 (i) Initiating a request for authorization of a purchase of tangible personal
2 property.

3 (ii) Disbursing currency from an account.

4 (iii) Initiating a balance inquiry for an account.

5 (iv) Distributing assistance through an electronic benefits transfer system as
6 described in this Subpart.

7 (22) "Psychic" means any person or establishment engaged in the occupation
8 of occult science including a fortune teller, palmist, astrologist, numerologist,
9 clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader,
10 prophet, or advisor who in any manner claims or pretends to tell fortunes or claims
11 or pretends to disclose mental faculties of individuals for any form of compensation.

12 ~~(8)~~ (23) "Recipient" or "FITAP recipient" means the parent or a relative of
13 the parent who receives FITAP on behalf of a dependent child.

14 ~~(9)~~ (24) "Secretary" means the secretary of the Department of Children and
15 Family Services.

16 (25) "Sexually oriented business" means any commercial enterprise that has
17 as its primary business the offering of a service or the sale, rent, or exhibit of devices
18 or any other items intended to provide sexual stimulation or sexual gratification to
19 the customer.

20 ~~(10)~~ (26) "State plan" means the state TANF block grant plan.

21 ~~(11)~~ (27) "Strategies to Empower People" or "STEP" means the education,
22 employment, training and related services program for families receiving cash
23 assistance payments.

24 ~~(12)~~ (28) "Temporary Assistance to Needy Families" or "TANF" means the
25 federal block grant program established under the Personal Responsibility and Work
26 Opportunity Reconciliation Act of 1996, Public Law 104-193, and applicable
27 changes due to its reauthorization.

28 ~~(14)~~ (29) "Work-eligible" refers to families containing an adult under sixty
29 years of age, or teen head of household, that is not disabled, incapacitated, or caring

1 for a family member who is disabled or incapacitated as documented by a medical
2 expert to which the status of disability is clearly established and explained. "Work-
3 eligible" also excludes cases in which only the child portion of need that is unrelated
4 to a sanction or penalty, known as a child-only case, is considered in determining
5 eligibility.

6 * * *

7 §231.3. FITAP benefits; prohibited uses

8 A. A person who receives FITAP benefits shall not use such benefits in an
9 electronic benefits transfer transaction in any of the following places:

10 (1) A liquor store.

11 (2) A gaming establishment.

12 (3) A retail establishment that provides adult-oriented entertainment in
13 which performers disrobe or perform in an unclothed state for entertainment
14 purposes.

15 (4) An adult bookstore.

16 (5) An adult paraphernalia store.

17 (6) A sexually oriented business.

18 (7) A commercial body art facility.

19 (8) A nail salon.

20 (9) A jewelry store.

21 (10) An amusement ride.

22 (11) An amusement attraction.

23 (12) A bail bonds company.

24 (13) A bar.

25 (14) A cruise ship.

26 (15) A psychic business.

27 (16) An establishment where persons under eighteen years of age are not
28 permitted to enter.

1 B. A person who receives FITAP benefits shall not use such benefits in any
2 electronic benefits transfer transaction at a retailer for the purchase of any of the
3 following:

- 4 (1) An alcoholic beverage as defined in R.S. 14:93.10.
- 5 (2) A tobacco product as defined in R.S. 14:91.6(B).
- 6 (3) A ticket for a lottery as defined in R.S. 47:9002.
- 7 (4) Jewelry as defined in R.S. 46:231.

8 C. The FITAP case of any recipient who violates the provisions of this
9 Section shall be closed in accordance with the following schedule:

- 10 (1) Case closure for a period of twelve months for the first violation.
- 11 (2) Case closure for a period of twenty-four months for the second violation.
- 12 (3) Permanent case closure for the third violation.

13 D. A person whose FITAP case is closed pursuant to the provisions of this
14 Section shall have the right to a hearing conducted in accordance with the
15 Administrative Procedure Act.

16 * * *

17 §231.14. Prohibited retailers, goods, and services; penalties; appeals

18 A. No retailer or other business establishment that participates in the cash
19 assistance electronic benefits transfer system shall accept the electronic benefits
20 transfer card in payment for any of the following:

- 21 (1) An alcoholic beverage as defined in R.S. 14:93.10.
- 22 (2) A tobacco product as defined in R.S. 14:91.6(B).
- 23 (3) A ticket for a lottery as defined in R.S. 47:9002.
- 24 (4) Jewelry as defined in R.S. 46:231.

25 B. The following retailers and business establishments are prohibited from
26 conducting any electronic benefits transfer transaction:

- 27 (1) A liquor store.
- 28 (2) A gaming establishment.

1 (3) A retail establishment that provides adult-oriented entertainment in
2 which performers disrobe or perform in an unclothed state for entertainment
3 purposes.

4 (4) An adult bookstore.

5 (5) An adult paraphernalia store.

6 (6) A sexually oriented business.

7 (7) A commercial body art facility.

8 (8) A nail salon.

9 (9) A jewelry store.

10 (10) An amusement ride.

11 (11) An amusement attraction.

12 (12) A bail bonds company.

13 (13) A bar.

14 (14) A cruise ship.

15 (15) A psychic business.

16 (16) An establishment where persons under eighteen years of age are not
17 permitted to enter.

18 C.(1) Except as provided in Paragraph (2) of this Subsection, on or before
19 January 1, 2015, each business of any type described in Subsection B of this Section
20 that has an automated teller machine or point of sale terminal on its premises shall
21 disable access to electronic cash assistance benefits through such machine or
22 terminal.

23 (2) The provisions of Paragraph (1) of this Subsection shall not apply to any
24 business approved by the Food and Nutrition Service of the United States
25 Department of Agriculture as a retailer in the Supplemental Nutrition Assistance
26 Program of this state.

27 D. A retailer or other business establishment that violates any provision of
28 Subsection A or B of this Section shall be subject to the following civil fines:

29 (1) Five hundred dollars for the first violation.

1 (2) One thousand dollars for the second violation.

2 (3) Two thousand five hundred dollars for the third violation and each
3 violation thereafter.

4 E.(1) The department shall promulgate rules and regulations in accordance
5 with the Administrative Procedure Act to effectuate the provisions of this Section.
6 The rules and regulations shall provide, at minimum, for notice to a retailer or other
7 business establishment of any violation, and for an appeal procedure including
8 judicial review.

9 (2) The appeal provided for in this Subsection shall be suspensive. Each
10 appeal initiated pursuant to this Subsection shall be heard by the division of
11 administrative law in accordance with the applicable provisions of Chapter 13-B of
12 Title 49 of the Louisiana Revised Statutes of 1950.

13 (3) The division of administrative law shall furnish to the department and
14 retailer or other business establishment a copy of the decision rendered in the appeal
15 and written notice of the manner for requesting judicial review.

16 (4) Authority to impose the fines provided for in Subsection D of this
17 Section shall commence on the effective date of rules promulgated by the department
18 to implement the provisions of this Section.

19 F. The department may institute any civil court action necessary to collect
20 fines imposed pursuant to this Section and not timely appealed. Interest shall begin
21 to accrue at the current judicial rate on the day following the date on which any fines
22 become due and payable. All costs of any successful action to collect such fines,
23 including travel expenses and reasonable attorney fees, shall be awarded to the
24 department in addition to the fines.

25 G.(1) Civil fines collected pursuant to the provisions of this Section shall be
26 deposited immediately into the state treasury.

27 (2) After compliance with the requirements of Article VII, Section 9(B) of
28 the Constitution of Louisiana relative to the Bond Security and Redemption Fund,
29 and prior to the monies being placed in the state general fund, an amount equal to the

1 amount deposited as provided in Paragraph (1) of this Subsection shall be credited
 2 to the Fraud Detection Fund created by R.S. 46:114.4.

3 (3) Monies in the Fraud Detection Fund may be appropriated by the
 4 legislature to the office of children and family services of the department in the
 5 manner prescribed by and for the purposes specified in R.S. 46:114.4(D).

6 * * *

7 §237. Kinship Care Subsidy Program

8 A. Creation. There is hereby established a Kinship Care Subsidy Program
 9 in the office of children and family services of the Department of Children and
 10 Family Services, for the purpose of assisting eligible kinship caregivers, including
 11 grandparents, step-grandparents, or other adult relatives within the fifth degree who
 12 have legal custody or guardianship of their minor relatives.

13 B. Definitions. For purposes of this Section:

14 (1) "Adult paraphernalia store" means an establishment that has as a
 15 substantial or significant portion of its stock clothing, objects, tools, toys, or any
 16 other items distinguished or characterized by their association with sexual activity,
 17 including sexual conduct or sexual excitement.

18 (2)(a) "Amusement attraction" means a movie theater, video arcade, or any
 19 other building, structure, or place in which activities providing amusement, pleasure,
 20 thrills, or excitement are offered.

21 (b) "Amusement attraction" does not include any enterprise principally
 22 devoted to the exhibition of products of agriculture, industry, education, science,
 23 religion, or the arts.

24 (3) "Amusement ride" means any mechanized device or combination of
 25 devices which carries passengers along, around, or over a fixed or restricted course
 26 for the purpose of giving its passengers amusement, pleasure, thrills, or excitement.
 27 "Amusement ride" includes inflatables.

28 (4) "Automated teller machine" means an electronic hardware device owned
 29 or operated by or on behalf of a financial institution or retailer that is capable of

1 dispensing currency and responding to balance inquiries through the use of a
2 magnetic stripe card issued by or on behalf of the state for distribution of assistance
3 through an electronic benefits transfer system as described in Subpart A of this Part.

4 (5) "Bail" means security given by a person to assure his appearance, or the
5 appearance of a third party, before the proper court whenever required.

6 (6) "Bar" means a business that holds a Class A-General retail permit and the
7 primary purpose of such business is to serve alcoholic beverages for consumption by
8 guests on the premises and in which the serving of food is only incidental to the
9 consumption of those beverages. Bars include, without limitation, taverns, saloons,
10 nightclubs, cocktail lounges, and cabarets.

11 (7) "Cash assistance" means funds that the department provides through the
12 Family Independence Temporary Assistance Program and the Kinship Care Subsidy
13 Program to eligible beneficiaries for the purpose of assisting those persons in
14 meeting ongoing basic needs.

15 (8) "Commercial body art facility" means any location, place, area, or
16 business, whether permanent or temporary, that provides consumers access to
17 personal services workers who for remuneration perform any of the following
18 procedures:

19 (a) Tattooing or inserting pigment under the surface of the skin of a human
20 being, by pricking with a needle or otherwise, to produce an indelible mark or figure
21 visible under the skin.

22 (b) Body piercing or the creation of an opening in the body of a human being
23 for the purpose of inserting jewelry or other decoration. For purposes of this Section,
24 "body piercing" does not include piercing an ear with a disposable, single-use stud
25 or solid needle that is applied using a mechanical device to force the needle or stud
26 through the ear.

27 (c) Application of permanent cosmetics or pigments under the skin of a
28 human being for the purpose of permanently changing the color or other appearance
29 of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.

1 (9) "Cruise ship" means any commercial ship used for the domestic or
2 international carriage of passengers.

3 (10) "Electronic benefits transfer transaction" and "EBT transaction" mean
4 the use of a credit or debit card service, automated teller machine, point-of-sale
5 terminal, or access to an online system for the withdrawal of funds.

6 (11)(a) "Gaming establishment" means a gambling casino and any other
7 establishment which provides gaming activities that are subject to regulation by the
8 Louisiana Gaming Control Board.

9 (b) "Gaming establishment" does not include either of the following:

10 (i) A grocery store that sells groceries including staple foods and that also
11 offers, or is located within the same building or complex as, casino activities,
12 gambling, or gaming activities.

13 (ii) Any establishment that offers casino, gambling, or gaming activities that
14 are incidental to the principal purpose of the business.

15 (12) "Jewelry" means an object or thing consisting of precious stones or
16 precious metals worn as adornment or apparel, including costume jewelry.

17 ~~(13)~~ (13) "Kinship caregiver" means the grandparent, step-grandparent, aunt,
18 uncle, or other adult relative within the fifth degree of consanguinity.

19 (14)(a) "Liquor store" means any retail establishment that sells exclusively
20 or primarily intoxicating liquor.

21 (b) "Liquor store" does not include a grocery store that sells both
22 intoxicating liquor and groceries, including staple foods.

23 ~~(15)~~ (15) "Minor relative" means a grandchild, step-grandchild, or other minor
24 relative not the natural or adopted child of the kinship caregiver who is under
25 eighteen years of age and who meets the definition of "dependent child" specified
26 in R.S. ~~46:231(3)(a)~~ 46:231(4)(a).

27 (16) "Nail salon" means a commercial establishment that provides nail
28 services of any kind including but not limited to trimming, filing, decorating,

1 shaping, sculpting, or in any way caring for the nails and skin of a person's hands or
2 feet together with massaging the hands, arms, legs, and feet.

3 (17) "Point-of-sale terminal" means an electronic hardware device that meets
4 all of the following criteria:

5 (a) May be utilized at a retailer's place of business where consumers pay for
6 goods or services.

7 (b) Is capable of the following:

8 (i) Initiating a request for authorization of a purchase of tangible personal
9 property.

10 (ii) Disbursing currency from an account.

11 (iii) Initiating a balance inquiry for an account.

12 (iv) Distributing assistance through an electronic benefits transfer system as
13 described in Subpart A of this Part.

14 (18) "Psychic" means any person or establishment engaged in the occupation
15 of occult science including a fortune teller, palmist, astrologist, numerologist,
16 clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader,
17 prophet, or advisor who in any manner claims or pretends to tell fortunes or claims
18 or pretends to disclose mental faculties of individuals for any form of compensation.

19 (19) "Sexually oriented business" means any commercial enterprise that has
20 as its primary business the offering of a service or the sale, rent, or exhibit of devices
21 or any other items intended to provide sexual stimulation or sexual gratification to
22 the customer.

23 C. Eligibility. To be eligible to qualify for a subsidy under the program, a
24 kinship caregiver of a minor relative shall meet the following requirements:

25 (1) Possess or obtain, within one year of enrolling in the program, legal
26 custody or guardianship of a minor relative who is living in his home.

27 (2) Have an annual income of less than one hundred fifty percent of the
28 federal poverty threshold, in accordance with the size of the family applying for the
29 subsidy.

1 (3) Apply for benefits through the Family Independence Temporary
2 Assistance Program (FITAP).

3 (4) Have neither of the minor relative's parents residing in applicant's
4 household.

5 (5) Agree to pursue the enforcement of child support obligations against the
6 parents of the minor relative with the assistance of the Department of Children and
7 Family Services in accordance with applicable law.

8 D. Disqualification. Any kinship caregiver convicted of a felony of
9 possession, use, or distribution of a controlled substance as defined in 21 U.S.C.
10 802(6) of the Controlled Substances Act shall be disqualified from applying for a
11 subsidy under this Section for one year from the date of conviction, or if
12 incarcerated, for one year from the date of release from incarceration.

13 E. Subsidy amounts. The office of children and family services shall
14 promulgate rules and regulations to establish the amount of the subsidy to be
15 awarded on behalf of each minor relative.

16 F. Rules, regulations, and procedures. The office of children and family
17 services shall promulgate rules and regulations to provide for any other eligibility
18 requirements which are reasonably necessary to administer the Kinship Care Subsidy
19 Program in accordance with this Section and any federal requirements, to promote
20 the safety and well-being of any minor relative for whom subsidies are issued, and
21 to establish procedures for reconsideration of eligibility of applicants no less than
22 annually.

23 G. Administration and funding. The subsidy provided for in this Section
24 shall be administered by the office of children and family services and funded
25 through the TANF block grant.

26 H. Prohibited uses of benefits. (1) A recipient of Kinship Care Subsidy
27 Program benefits shall not use such benefits in an electronic benefits transfer
28 transaction in any of the following places:

29 (a) A liquor store.

- 1 (b) A gaming establishment.
- 2 (c) A retail establishment that provides adult-oriented entertainment in which
3 performers disrobe or perform in an unclothed state for entertainment purposes.
- 4 (d) An adult bookstore.
- 5 (e) An adult paraphernalia store.
- 6 (f) A sexually oriented business.
- 7 (g) A commercial body art facility.
- 8 (h) A nail salon.
- 9 (i) A jewelry store.
- 10 (j) An amusement ride.
- 11 (k) An amusement attraction.
- 12 (l) A bail bonds company.
- 13 (m) A bar.
- 14 (n) A cruise ship.
- 15 (o) A psychic business.
- 16 (p) An establishment where persons under eighteen years of age are not
17 permitted to enter.
- 18 (2) A recipient of Kinship Care Subsidy Program benefits shall not use such
19 benefits in any electronic benefits transfer transaction at a retailer for the purchase
20 of any of the following:
- 21 (a) An alcoholic beverage as defined in R.S. 14:93.10.
- 22 (b) A tobacco product as defined in R.S. 14:91.6(B).
- 23 (c) A ticket for a lottery as defined in R.S. 47:9002.
- 24 (d) Jewelry as defined in R.S. 46:231.
- 25 (3) The Kinship Care Subsidy Program case of any recipient who violates
26 the provisions of this Section shall be closed in accordance with the following
27 schedule:
- 28 (a) Case closure for a period of twelve months for the first violation.
- 29 (b) Case closure for a period of twenty-four months for the second violation.

- 1 (c) Permanent case closure for the third violation.
- 2 (d) A recipient whose Kinship Care Subsidy Program case is closed pursuant
- 3 to the provisions of this Subsection shall have the right to a hearing pursuant to the
- 4 Administrative Procedure Act.
- 5 Section 2. This Act shall become effective upon signature by the governor or, if not
- 6 signed by the governor, upon expiration of the time for bills to become law without signature
- 7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
- 8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
- 9 effective on the day following such approval.

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)]

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.

House Floor Amendments to the engrossed bill.

1. Made technical changes.