

2011 DRAFTING REQUEST

Bill

Received: 02/01/2012

Received By: **fknepp**

Wanted: **As time permits**

Companion to LRB:

For: **Alberta Darling (608) 266-5830**

By/Representing: **Bob Delaporte**

May Contact:

Drafter: **fknepp**

Subject: **Public Assistance - food stamps**

Addl. Drafters:

Extra Copies: **Pam Kahler**

Submit via email: **YES**

Requester's email: **Sen.Darling@legis.wisconsin.gov**

Carbon copy (CC:) to: **fern.knepp@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Trafficking food stamp benefits

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State Crime
/1	fknepp 02/02/2012	mduchek 02/09/2012	rschluet 02/09/2012	_____	ggodwin 02/09/2012	ggodwin 02/16/2012	

FE Sent For:

<END>

at
intro
2-28-12

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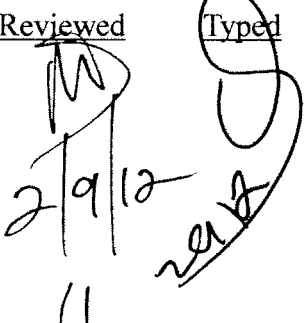

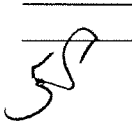
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1?	fknepp						
FE Sent For:		11		<END>			

Kahler, Pam

From: Delaporte, Bob
Sent: Tuesday, January 31, 2012 3:01 PM
To: Kahler, Pam
Subject: FW: Trafficking Revision
Attachments: Trafficking Revision 10.7.11.doc

Pam,

Thank you for your patience on this... here is the language Senator Darling would like to have drafted as a bill

-Bob Delaporte
 State Senator Alberta Darling's office

From: Evenson, Andrew
Sent: Monday, January 30, 2012 10:22 AM
To: Delaporte, Bob; Lundell, Kasie
Subject: FW: Trafficking Revision

From: O'Brien, Kyle T - DHS [mailto:Kyle.O'Brien@dhs.wisconsin.gov]
Sent: Monday, January 30, 2012 9:54 AM
To: Evenson, Andrew
Subject: Trafficking Revision

Andrew,

Here is the draft language. Also, I've included a program analysts text on the reasoning for the revisions. Let me know if you have questions.

Attached is a proposed revision to chapter 49 related to trafficking offenses for the FS Program. This mirrors new federal regulations language, let's us clearly define trafficking in statutes and also make it a FS offense to purchase food with an EBT card and then sell it.

Thanks much,

Kyle O'Brien
Legislative Liaison
Office of the Secretary
Wisconsin Department of Health Services

Phone: (608) 266-3262
Email: Kyle.O'Brien@wisconsin.gov

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Please remember that all communications conducted with state resources are subject to Wisconsin's Open Records Law.

49.795 Food stamp offenses.

(1) In this section:

- (a) "Eligible person" means a member of a household certified as eligible for the food stamp program or a person authorized to represent a certified household under 7 USC 2020 (e) (7).
- (b) "Food" means items which may be purchased using food coupons under 7 USC 2012 (g) and 2016 (b).
- (c) "Food stamp program" means the federal food stamp program under 7 USC 2011 to 2029.
- (cm) "Multicounty consortium" has the meaning given in s. 49.78 (1) (br).
- (d) "Supplier" means a retail grocery store or other person authorized by the federal department of agriculture to accept food coupons in exchange for food under the food stamp program.
- (e) "Trafficking" means the buying, selling, stealing, or otherwise effecting an exchange of supplemental nutrition assistance program benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; the exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of title 21, United States Code, for supplemental nutrition assistance program benefits; the purchase with supplemental nutrition assistance program benefits of products that have container deposits for purposes of subsequently discarding the product and returning the container(s) in exchange for cash refund deposits; the re-sale of products purchased with supplemental nutrition assistance program benefits for purposes of obtaining cash or consideration other than eligible food; the purchase of products originally purchased with supplemental nutrition assistance program benefits and resold in exchange for cash or consideration other than eligible food; or other action that is trafficking under 7 USC 2011, et. seq.
- (f) "Unauthorized person" means a person who is not one of the following:
 1. An employee or officer of the federal government, the state, a county, a multicounty consortium, or a federally recognized American Indian tribe acting in the course of official duties in connection with the food stamp program.
 2. A person acting in the course of duties under a contract with the federal government, the state, a county, a multicounty consortium, or a federally recognized American Indian tribe in connection with the food stamp program.
 3. An eligible person.
 4. A supplier.
 5. A person authorized to redeem food coupons under 7 USC 2019.

Deleted: or

(2) No person may misstate or conceal facts in a food stamp program application or report of income, assets or household circumstances with intent to secure or continue to receive food stamp program benefits.

(2m) No person may knowingly fail to report changes in income, assets or other facts as required under 7 USC 2015 (c) (1) or regulations issued under that provision.

(3) No person may knowingly issue food coupons to a person who is not an eligible person or knowingly issue food coupons to an eligible person in excess of the amount for which the person's household is eligible.

(4) No eligible person may knowingly transfer food coupons except to purchase food from a supplier or knowingly obtain or use food coupons for which the person's household is not eligible.

(5) No supplier may knowingly obtain food coupons except as payment for food or knowingly obtain food coupons from a person who is not an eligible person.

(6) No unauthorized person may knowingly obtain, possess, transfer or use food coupons.

(7) No person may knowingly alter food coupons.

(8) No person may knowingly commit trafficking of supplemental nutrition assistance program benefits as defined in 49.795(1)(e).

Deleted: f

(9)

(a) For a first offense under this section:

1. If the value of the food coupons does not exceed \$100, a person who violates this section may be fined not more than \$1,000 or imprisoned not more than one year in the county jail or both.
2. If the value of the food coupons exceeds \$100, but is less than \$5,000, a person who violates this section is guilty of a Class I felony.

(b) For a 2nd or subsequent offense under this section:

1. If the value of the food coupons does not exceed \$100, a person who violates this section may be fined not more than \$1,000 or imprisoned not more than one year in the county jail or both.

2. If the value of the food coupons exceeds \$100, but is less than \$5,000, a person who violates this section is guilty of a Class H felony.

(c) For any offense under this section, if the value of the food coupons is \$5,000 or more, a person who violates this section is guilty of a Class G felony.

(d)

1. In addition to the penalties applicable under par. (a), (b) or (c), the court shall suspend a person who violates this section from participation in the food stamp program as follows:

a. For a first offense under this section, one year. The court may extend the suspension by not more than 18 months.

b. For a 2nd offense under this section, 2 years. The court may extend the suspension by not more than 18 months.

c. For a 3rd offense under this section, permanently.

1m. In addition to the penalties applicable under par. (a), (b) or (c), a court shall permanently suspend from the food stamp program a person who has been convicted of an offense under 7 USC 2024 (b) or (c) involving an item covered by 7 USC 2024 (b) or (c) having a value of \$500 or more.

2. The person may apply to the multicounty consortium or the federally recognized American Indian tribal governing body or, if the person is a supplier, to the federal department of agriculture for reinstatement following the period of suspension, if the suspension is not permanent.

NOTE: Subd. 2. is shown as amended eff. 1-1-12 by 2011 Wis. Act 32. Prior to 1-1-12 it reads:

2. The person may apply to the county department under s. 46.215, 46.22 or 46.23 or the federally recognized American Indian tribal governing body or, if the person is a supplier, to the federal department of agriculture for reinstatement following the period of suspension, if the suspension is not permanent.

(e)

1. If a court finds that a person traded a controlled substance, as defined in s. 961.01 (4), for food coupons, the court shall suspend the person from participation in the food stamp program as follows:

a. Upon the first such finding, for 2 years.

b. Upon the 2nd such finding, permanently.

2. If a court finds that a person traded firearms, ammunition or explosives for food coupons, the court shall suspend the person permanently from participation in the food stamp program.

(f) Notwithstanding par. (d), in addition to the penalties applicable under par. (a), (b) or (c), the court shall suspend from the food stamp program for a period of 10 years a person who fraudulently misstates or misrepresents his or her identity or place of residence for the purpose of receiving multiple benefits simultaneously under the food stamp program.

History: 2001 a.16 s. 1656tz; Stats. 2001 s. 49.795; 2001 a.109; 2011 a.32.

49.797 Electronic benefit transfer.

(1) DEFINITION. In this section, "food stamp program" means the federal food stamp program under 7 USC 2011 to 2029 or, if the department determines that the food stamp program no longer exists, a nutrition program that the department determines is a successor to the food stamp program.

(2) DELIVERY OF FOOD STAMPS.

(a) Notwithstanding s. 46.028 and except as provided in par. (b) and sub. (8), the department shall administer a statewide program to deliver food stamp benefits to recipients of food stamp benefits by an electronic benefit transfer system. All suppliers, as defined in s. 49.795 (1) (d), may participate in the delivery of food stamp benefits under the electronic benefit transfer system. The department shall explore methods by which nontraditional retailers, such as farmers' markets, may participate in the delivery of food stamp benefits under the electronic benefit transfer system.

(b) The department need not implement a program to deliver food stamp benefits by an electronic benefit transfer system if any of the following applies:

1. The department determines that the cost of the electronic benefit transfer system would be greater than the cost of another food stamp delivery system.

2. The department determines that the state may be liable under 12 CFR 205 for lost or stolen benefits.

(4) DUTIES. In administering a program to deliver benefits by an electronic benefit transfer system, the department shall do all of the following:

(a) Consult with members of the following groups:

1. Benefit recipients.

2. Advocates for benefit recipients.

3. Financial institution personnel.

4. Appropriate county, state and tribal governing body employees.



State of Wisconsin
2011 - 2012 LEGISLATURE

In 2-2-2012



LRB-3996/?
FFK:.....

Soon
1/2
PME
M

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

1 AN ACT ..., relating to: trafficking food stamp program benefits.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health Services administers the Supplemental Nutrition Assistance Program (SNAP), formerly known as the food stamp program and currently known in Wisconsin as FoodShare, under which eligible low-income individuals and families receive cash assistance to purchase food. Current law provides penalties for various offenses related to SNAP. For example, under current law, a person who makes a misleading or fraudulent statement on a SNAP application is subject to a penalty that is based on the value of the SNAP benefits involved in the offense and the number of SNAP offenses that the person has previously committed. Other SNAP offenses subject to penalty include failing to report changes in income or assets as required by federal law, transferring SNAP benefits for a purpose other than purchasing food, and issuing SNAP benefits to a person who is not eligible to receive the benefits.

This bill adds trafficking SNAP benefits to the list of SNAP offenses that are subject to penalties under current law. Under the bill, a person trafficks SNAP benefits if the person does any of the following:

1. Buys, sells, steals, or otherwise exchanges SNAP benefits issued and accessed through the electronic benefit transfer program, or manually, for cash or other consideration.
2. Exchanges firearms, ammunition, explosives, or controlled substances for SNAP benefits.
3. Uses SNAP benefits to purchase food that has a container deposit for the sole purpose of returning the container for a cash refund.

- 4. Resells food purchased with SNAP benefits for cash or other consideration.
- 5. Purchases, for cash or other consideration, food that was previously purchased from a supplier using SNAP benefits.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

CRIME
Tag

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 49.795 (1) (dm) of the statutes is created to read:

2 49.795 (1) (dm) "Traffic food stamp program benefits" means to do any of the
3 following:

4 1. Buy, sell, steal, or otherwise accomplish the exchange of, directly, indirectly,
5 in collusion with others, or individually, food stamp program benefits issued and
6 accessed through the electronic benefit transfer program under s. 49.797, or by
7 manual voucher and signature, for cash or other consideration that is not food.

8 2. Exchange firearms, ammunition, explosives, or controlled substances, as
9 defined in 21 USC 802, for food stamp program benefits.

10 3. Use food stamp program benefits to purchase food that includes a container
11 deposit for the sole purpose of discarding the container contents and returning the
12 container for a cash refund of the deposit.

13 4. Resell food purchased with food stamp program benefits for the purpose of
14 obtaining cash or other consideration that is not food.

15 5. Purchase, for cash or other consideration that is not food, food that was
16 previously purchased from a supplier using food stamp program benefits.

17 6. ~~An action, other than an action described in subd. 1. to 5., with respect to food~~
18 stamp program benefits that is trafficking under the food stamp program.

19 SECTION 2. 49.795 (7m) of the statutes is created to read:

Any other
Any other
subds.
21 USC 2011 to 2036a
87

Godwin, Gigi

From: Delaporte, Bob
Sent: Thursday, February 16, 2012 3:46 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-3996/1 Topic: Trafficking food stamp benefits

Please Jacket LRB 11-3996/1 for the SENATE.