



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1158/4
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2015 ASSEMBLY BILL 177

April 22, 2015 – Introduced by Representatives R. BROOKS, BRANDTJEN, ALLEN, CZAJA, GANNON, HORLACHER, KERKMAN, KNODL, KREMER, NYGREN, ROHRKASTE and PETERSEN, cosponsored by Senators MARKLEIN and NASS. Referred to Committee on Public Benefit Reform.

1 **AN ACT** *to create* 20.435 (4) (cm), 49.79 (7m), 227.01 (13) (tm) and 253.06 (9) of
2 the statutes; **relating to:** limiting the foods that may be purchased under
3 FoodShare; requiring a report on the cost to implement and comply with the
4 food limitations; requiring review, updating, and publication of the list of
5 authorized foods; providing an exemption from rule-making procedures; and
6 making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, the federal food stamp program, now known as the Supplemental Nutrition Assistance Program (SNAP) and called FoodShare in this state, assists eligible low-income individuals (recipients) to purchase food. SNAP benefits are paid entirely with federal moneys. The cost of administration is split between the federal and state governments; the program is administered in this state by the Department of Health Services (DHS).

Under this bill, DHS must require that not less than 67 percent of the SNAP benefits used by a recipient in a month be used to purchase any of the following foods: foods that are on the list of foods authorized for the federal special supplemental nutrition program for women, infants, and children (WIC foods); beef; pork; chicken; fish; fresh produce; and fresh, frozen, and canned white potatoes. In addition, DHS must prohibit using SNAP benefits for the purchase of crab, lobster, shrimp, or any other shellfish. To facilitate compliance with the requirements, DHS may authorize

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grocers and other retailers that sell food to recipients (retailers) to swipe a recipient's benefit card before scanning any items that the recipient is purchasing.

Under the bill, DHS is required to reimburse retailers and warehouse suppliers in this state for their initial implementation costs associated with the new requirements. Before implementing the new requirements, DHS must determine what the implementation and compliance costs associated with the new requirements will be to retailers and warehouse suppliers in this state and must submit a report with that cost determination to the Joint Committee on Finance.

If DHS determines that a federal waiver is needed to implement the food limitation requirements or the authorization to pre-swipe benefit cards under the bill, it must request the waiver and may not implement the requirements or the pre-swipe authorization unless the waiver is granted. DHS must implement the requirements within three years after the bill is enacted or, if a waiver is necessary, within two years after the waiver is granted.

The bill requires DHS annually to review, and to update as appropriate, its list of WIC foods and to publish a current list of WIC foods on its Internet site. DHS also must publish on its Internet site a list of the foods for which 67 percent of a recipient's benefits must be used.

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

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

1 **SECTION 1.** 20.435 (4) (cm) of the statutes is created to read:

2 20.435 (4) (cm) *Reimbursement for FoodShare initial implementation costs.* A
3 sum sufficient to reimburse retail and warehouse suppliers in this state for their
4 initial implementation costs associated with the requirements under s. 49.79 (7m)
5 that limit foods that may be purchased with food stamp benefits.

6 **SECTION 2.** 49.79 (7m) of the statutes is created to read:

7 **49.79 (7m) FOODS THAT MAY BE PURCHASED WITH BENEFITS; PROHIBITED FOODS.** (a)
8 In this subsection:

9 1. "Authorized food" has the meaning given in s. 253.06 (1) (a).

10 2. "Benefits" means benefits under the food stamp program.

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1 3. "Recipient" means an individual who is eligible for and receiving benefits
2 under the food stamp program.

3 (b) 1. The department shall require that, of the benefits amount used by a
4 recipient in a month to purchase food, not less than 67 percent is used to purchase
5 only any of the following foods:

6 a. Authorized foods on the list published by the department under s. 253.06 (9).

7 b. Beef, pork, chicken, and fish, whether an authorized food on the list
8 published under s. 253.06 (9) or not.

9 c. Fresh produce and white potatoes, including fresh, frozen, and canned,
10 whether an authorized food on the list published under s. 253.06 (9) or not.

11 2. The department shall publish on the department's Internet site a current list
12 of the foods for which a recipient must use at least 67 percent of the benefits amount
13 that the recipient uses in a month.

14 3. The department shall prohibit the use of benefits to purchase crab, lobster,
15 shrimp, or any other shellfish.

16 (c) To facilitate compliance with the requirements under par. (b), the
17 department may authorize retail suppliers to swipe food stamp benefit cards before
18 items that are being purchased are scanned or checked out.

19 (d) From the appropriation under s. 20.435 (4) (cm), the department shall
20 reimburse retail and warehouse suppliers in this state for their initial
21 implementation costs related to compliance with the food limitation requirements
22 under par. (b).

23 (e) 1. Except as provided in subd. 2., the department shall implement the
24 requirements under par. (b) and the authorization under par. (c) no later than the

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1 first day of the 37th month beginning after the effective date of this subdivision ...
2 [LRB inserts date].

3 2. If the department determines that it may not implement the requirements
4 under par. (b) or the authorization under par. (c) without a federal waiver, the
5 department shall, no later than one year after the effective date of this subdivision
6 [LRB inserts date], request a waiver from the secretary of the federal department
7 of agriculture and may not implement the requirements under par. (b) or the
8 authorization under par. (c) unless the waiver is granted and in effect. If a waiver
9 is requested and granted under this subdivision, the department shall implement
10 the requirements under par. (b) and the authorization under par. (c) no later than the
11 first day of the 25th month beginning after the date on which the waiver is granted.

12 **SECTION 3.** 227.01 (13) (tm) of the statutes is created to read:

13 227.01 (13) (tm) Relates to the requirements under ss. 49.79 (7m) and 253.06
14 (9).

15 **SECTION 4.** 253.06 (9) of the statutes is created to read:

16 253.06 (9) REVIEW, UPDATING, AND PUBLICATION OF LIST OF AUTHORIZED FOODS. The
17 department shall do all of the following:

- 18 (a) Annually review, and update as appropriate, the list of authorized foods.
19 (b) Publish a current list of authorized foods on the department's Internet site.

20 **SECTION 5. Nonstatutory provisions.**

21 (1) REPORT ON IMPLEMENTATION COSTS. The department of health services shall
22 consult and work with stakeholders, investigate, and determine the cost for retail
23 and warehouse suppliers in this state to implement and comply with the
24 requirements under section 49.79 (7m) of the statutes, as created by this act, related
25 to limiting the foods that individuals may purchase with food stamp benefits. The

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1 department of health services shall prepare a report of its findings and cost
2 determination and submit the report to the joint committee on finance. The report
3 shall be submitted before the requirements under section 49.79 (7m) (b) of the
4 statutes, as created by this act, and the authorization under section 49.79 (7m) (c)
5 of the statutes, as created by this act, are implemented, but after a waiver is granted
6 if the department determines that a waiver is needed under section 49.79 (7m) (e)
7 2. of the statutes, as created by this act.

8

(END)