

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 15-0157.01 Jerry Barry x4341

HOUSE BILL 15-1255

HOUSE SPONSORSHIP

Dore and Pabon,

SENATE SPONSORSHIP

(None),

House Committees
Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ENFORCEMENT OF THE PROHIBITED USE OF**
102 **ELECTRONIC BENEFITS TRANSFER CARDS AT CERTAIN**
103 **LOCATIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)

The bill requires the department of human services (department) and the department of revenue to submit reports to specified committees of the general assembly on improper use of electronic benefits transfer cards (EBT cards) at certain prohibited locations.

The bill requires the department to adopt rules enforcing the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
March 20, 2015

prohibition against the use of EBT cards at prohibited establishments including increasing penalties for repeated violations.

The bill also requires the department of revenue to promulgate rules for establishments regulated by the department of revenue:

- ! Requiring the operators of establishments in which EBT cards are prohibited and in which an automated teller machine (ATM) is located to post a sign notifying users that they are prohibited from accessing benefits with an EBT card at the ATM. The bill specifies a statement that must appear on the sign.
- ! Requiring operators of such establishments to take measures to prevent clients from using EBT cards at ATMs in their establishments; and
- ! Establishing methods to enforce measures by operators to prohibit clients from using an ATM at prohibited locations, including increasing penalties.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 26-2-104, **add** (2) (f)
3 and (2) (g) as follows:

4 **26-2-104. Public assistance programs - electronic benefits**
5 **transfer service - joint reports with department of revenue - signs -**
6 **rules.** (2) (f) ON OR BEFORE JANUARY 1, 2016, AND JULY 1, 2016, AND ON
7 OR BEFORE EACH JANUARY 1 THEREAFTER, THE DEPARTMENT OF REVENUE
8 AND THE STATE DEPARTMENT SHALL EACH SUBMIT, AND PRESENT THE
9 REPORTS AT THE SAME MEETING, ON ELECTRONIC BENEFITS TRANSFERS TO
10 THE STATE, VETERANS, AND MILITARY AFFAIRS COMMITTEES OF THE
11 SENATE AND HOUSE OF REPRESENTATIVES, THE HEALTH AND HUMAN
12 SERVICES COMMITTEE OF THE SENATE, AND THE PUBLIC HEALTH CARE AND
13 HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR
14 ANY SUCCESSOR COMMITTEES. THE REPORTS MUST LIST THE NUMBERS OF
15 INSTANCES THAT A CLIENT ACCESSED CASH BENEFITS THROUGH THE
16 ELECTRONIC BENEFITS TRANSFER SERVICE THROUGH AUTOMATED TELLER

1 MACHINES LOCATED IN EACH TYPE OF ESTABLISHMENT DESCRIBED IN
2 PARAGRAPH (a) OF THIS SUBSECTION (2) OR ANY OTHER ESTABLISHMENT
3 IN WHICH A CLIENT IS PROHIBITED FROM ACCESSING BENEFITS BY FEDERAL
4 LAW.

5 (g) ON OR BEFORE JANUARY 1, 2016, THE STATE DEPARTMENT
6 SHALL ADOPT RULES PURSUANT TO THE "STATE ADMINISTRATIVE
7 PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., TO ENFORCE THE
8 PROHIBITION OF CLIENTS ACCESSING BENEFITS AT AN AUTOMATED TELLER
9 MACHINE LOCATED IN AN ESTABLISHMENT DESCRIBED IN PARAGRAPH (a)
10 OF THIS SUBSECTION (2) OR ANY OTHER ESTABLISHMENT IN WHICH A
11 CLIENT IS PROHIBITED FROM ACCESSING BENEFITS BY FEDERAL LAW. THE
12 RULES MUST INCLUDE INCREASING PENALTIES FOR MULTIPLE VIOLATIONS.

13 **SECTION 2.** In Colorado Revised Statutes, 26-2-104, **add** (2) (h)
14 as follows:

15 **26-2-104. Public assistance programs - electronic benefits**
16 **transfer service - joint reports with department of revenue - signs -**
17 **rules.** (2) (h) (I) ON OR BEFORE JANUARY 1, 2016, THE DEPARTMENT OF
18 REVENUE SHALL ADOPT RULES PURSUANT TO THE "STATE
19 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., THAT
20 RELATE TO A CLIENT'S USE OF AUTOMATED TELLER MACHINES AT
21 LOCATIONS WHERE SUCH USE IS PROHIBITED. THE RULES MUST APPLY TO
22 THE FOLLOWING ESTABLISHMENTS:

23 (A) LICENSED GAMING ESTABLISHMENTS AS DEFINED IN SECTION
24 12-47.1-103 (15), C.R.S.; IN-STATE SIMULCAST FACILITIES AS DEFINED IN
25 SECTION 12-60-102 (14), C.R.S.; AND TRACKS FOR RACING AS DEFINED IN
26 SECTION 12-60-102 (26), C.R.S.;

27 (B) RETAIL ESTABLISHMENTS LICENSED TO SELL MALT, VINOUS, OR

1 SPIRITUOUS LIQUORS PURSUANT TO PART 3 OF ARTICLE 47 OF TITLE 12,
2 C.R.S.; AND

3 (C) ANY OTHER ESTABLISHMENTS REGULATED BY THE
4 DEPARTMENT OF REVENUE AT WHICH A CLIENT IS PROHIBITED FROM
5 ACCESSING PUBLIC BENEFITS PURSUANT TO FEDERAL LAW.

6 (II) THE RULES ADOPTED PURSUANT TO SUBPARAGRAPH (I) OF THIS
7 PARAGRAPH (h) MUST INCLUDE:

8 (A) A REQUIREMENT THAT THE OPERATOR OF ANY ESTABLISHMENT
9 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (h) AT WHICH AN
10 AUTOMATED TELLER MACHINE IS LOCATED POST A SIGN ON OR NEAR THE
11 AUTOMATED TELLER MACHINE NOTIFYING CLIENTS THAT THIS SECTION
12 PROHIBITS THE USE OF AN ELECTRONIC BENEFITS SERVICE TRANSFER CARD
13 AT THE MACHINE. THE SIGN MUST CONTAIN THE FOLLOWING STATEMENT:

14 "THE USE OF AN ELECTRONIC BENEFITS TRANSFER SERVICE
15 ("EBT") CARD TO ACCESS PUBLIC BENEFITS AT THIS
16 MACHINE IS PROHIBITED BY COLORADO LAW, SECTION
17 26-2-104, COLORADO REVISED STATUTES."

18 (B) A REQUIREMENT THAT THE OPERATOR OF ANY ESTABLISHMENT
19 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (h) AT WHICH AN
20 AUTOMATED TELLER MACHINE IS LOCATED TAKE MEASURES TO PREVENT
21 A CLIENT FROM USING AN ELECTRONIC BENEFITS CARD TO ACCESS MONEYS
22 FROM SUCH AN AUTOMATED TELLER MACHINE; AND

23 (C) METHODS TO ENFORCE THE REQUIREMENT OF
24 SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (II) AGAINST THE
25 OPERATOR OF THE ESTABLISHMENT INCLUDING INCREASING PENALTIES FOR
26 MULTIPLE VIOLATIONS.

27 (D) A PROVISION THAT ANY ESTABLISHMENT DESCRIBED IN

1 SUBPARAGRAPH (I) OF THIS PARAGRAPH (h) IS EXEMPT FROM THE
2 REQUIREMENTS OF THE RULES ADOPTED PURSUANT TO
3 SUB-SUBPARAGRAPHS (A) TO (C) OF THIS SUBPARAGRAPH (II) IF THE
4 ESTABLISHMENT PROVIDES TO THE DEPARTMENT OF REVENUE A
5 STATEMENT FROM THE OWNER OR OPERATOR OF EACH AUTOMATED
6 TELLER MACHINE LOCATED WITHIN THE ESTABLISHMENT VERIFYING THAT
7 THE MACHINE DOES NOT ACCEPT ELECTRONIC BENEFIT TRANSFER CARDS;
8 EXCEPT THAT, IF ONE OR MORE VIOLATIONS OF SUBPARAGRAPH (II) OF
9 PARAGRAPH (a) OF THIS SUBSECTION (2) OCCUR AT ANY SUCH
10 ESTABLISHMENT, THE DEPARTMENT OF REVENUE MAY TAKE MEASURES TO
11 PREVENT FUTURE VIOLATIONS, INCLUDING INCREASING PENALTIES FOR
12 MULTIPLE VIOLATIONS.

13 SECTION 3. In Colorado Revised Statutes, 26-2-104, **add** (2) (h)
14 as follows:

15 **26-2-104. Public assistance programs - electronic benefits**
16 **transfer service - joint reports with department of revenue - signs -**
17 **rules.** (2) (h) (I) ON OR BEFORE JANUARY 1, 2016, THE DEPARTMENT OF
18 REVENUE SHALL ADOPT RULES PURSUANT TO THE "STATE
19 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., THAT
20 RELATE TO A CLIENT'S USE OF AUTOMATED TELLER MACHINES AT
21 LOCATIONS WHERE SUCH USE IS PROHIBITED. THE RULES MUST APPLY TO
22 THE FOLLOWING ESTABLISHMENTS:

23 (A) LICENSED GAMING ESTABLISHMENTS AS DEFINED IN SECTION
24 12-47.1-103 (15), C.R.S.; IN-STATE SIMULCAST FACILITIES AS DEFINED IN
25 SECTION 12-60-102 (14), C.R.S.; AND TRACKS FOR RACING AS DEFINED IN
26 SECTION 12-60-102 (26), C.R.S.;

27 (B) RETAIL ESTABLISHMENTS LICENSED TO SELL MALT, VINOUS, OR

1 SPIRITUOUS LIQUORS PURSUANT TO PART 3 OF ARTICLE 47 OF TITLE 12,
2 C.R.S.;

3 (C) ESTABLISHMENTS LICENSED TO SELL MEDICAL MARIJUANA OR
4 MEDICAL MARIJUANA-INFUSED PRODUCTS PURSUANT TO ARTICLE 43.3 OF
5 TITLE 12, C.R.S., OR RETAIL MARIJUANA OR RETAIL MARIJUANA-INFUSED
6 PRODUCTS PURSUANT TO ARTICLE 43.4 OF TITLE 12, C.R.S.; AND

7 (D) ANY OTHER ESTABLISHMENTS REGULATED BY THE
8 DEPARTMENT OF REVENUE AT WHICH A CLIENT IS PROHIBITED FROM
9 ACCESSING PUBLIC BENEFITS PURSUANT TO FEDERAL LAW.

10 (II) THE RULES ADOPTED PURSUANT TO SUBPARAGRAPH (I) OF THIS
11 PARAGRAPH (h) MUST INCLUDE:

12 (A) A REQUIREMENT THAT THE OPERATOR OF ANY ESTABLISHMENT
13 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (h) AT WHICH AN
14 AUTOMATED TELLER MACHINE IS LOCATED POST A SIGN ON OR NEAR THE
15 AUTOMATED TELLER MACHINE NOTIFYING CLIENTS THAT THIS SECTION
16 PROHIBITS THE USE OF AN ELECTRONIC BENEFITS SERVICE TRANSFER CARD
17 AT THE MACHINE. THE SIGN MUST CONTAIN THE FOLLOWING STATEMENT:

18 "THE USE OF AN ELECTRONIC BENEFITS TRANSFER SERVICE
19 ("EBT") CARD TO ACCESS PUBLIC BENEFITS AT THIS
20 MACHINE IS PROHIBITED BY COLORADO LAW, SECTION
21 26-2-104, COLORADO REVISED STATUTES."

22 (B) A REQUIREMENT THAT THE OPERATOR OF ANY ESTABLISHMENT
23 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (h) AT WHICH AN
24 AUTOMATED TELLER MACHINE IS LOCATED TAKE MEASURES TO PREVENT
25 A CLIENT FROM USING AN ELECTRONIC BENEFITS CARD TO ACCESS MONEYS
26 FROM SUCH AN AUTOMATED TELLER MACHINE; AND

27 (C) METHODS TO ENFORCE THE REQUIREMENT OF

1 SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (II) AGAINST THE
2 OPERATOR OF THE ESTABLISHMENT INCLUDING INCREASING PENALTIES FOR
3 MULTIPLE VIOLATIONS.

4 (D) A PROVISION THAT ANY ESTABLISHMENT DESCRIBED IN
5 SUBPARAGRAPH (I) OF THIS PARAGRAPH (h) IS EXEMPT FROM THE
6 REQUIREMENTS OF THE RULES ADOPTED PURSUANT TO
7 SUB-SUBPARAGRAPHS (A) TO (C) OF THIS SUBPARAGRAPH (II) IF THE
8 ESTABLISHMENT PROVIDES TO THE DEPARTMENT OF REVENUE A
9 STATEMENT FROM THE OWNER OR OPERATOR OF EACH AUTOMATED
10 TELLER MACHINE LOCATED WITHIN THE ESTABLISHMENT VERIFYING THAT
11 THE MACHINE DOES NOT ACCEPT ELECTRONIC BENEFIT TRANSFER CARDS;
12 EXCEPT THAT, IF ONE OR MORE VIOLATIONS OF SUBPARAGRAPH (II) OF
13 PARAGRAPH (a) OF THIS SUBSECTION (2) OCCUR AT ANY SUCH
14 ESTABLISHMENT, THE DEPARTMENT OF REVENUE MAY TAKE MEASURES TO
15 PREVENT FUTURE VIOLATIONS INCLUDING INCREASING PENALTIES FOR
16 MULTIPLE VIOLATIONS.

17 **SECTION 4. Effective date.** (1) Except as otherwise provided in
18 subsection (2) of this section, this act takes effect upon passage.

19 (2) (a) Section 2 of this act only takes effect if Senate Bill 15-065
20 does not become law.

21 (b) Section 3 of this act only takes effect if Senate Bill 15-065
22 becomes law.

23 **SECTION 5. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.