

NOTE: The governor signed this measure on 5/1/2015.

An Act

HOUSE BILL 15-1255

BY REPRESENTATIVE(S) Dore and Pabon, Brown, Conti, Fields, Lawrence, Lontine, Priola, Tyler, Windholz, Young, Kagan, Klingenschmitt, Tate, Hulinghorst;
also SENATOR(S) Grantham and Jahn, Balmer, Baumgardner, Cooke, Crowder, Lambert, Lundberg, Marble, Martinez Humenik, Roberts, Scheffel, Scott, Woods, Cadman.

CONCERNING THE ENFORCEMENT OF THE PROHIBITED USE OF ELECTRONIC BENEFITS TRANSFER CARDS AT CERTAIN LOCATIONS.

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

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

26-2-104. Public assistance programs - electronic benefits transfer service - joint reports with department of revenue - signs - rules. (2) (f) ON OR BEFORE JANUARY 1, 2016, AND JULY 1, 2016, AND ON OR BEFORE EACH JANUARY 1 THEREAFTER, THE DEPARTMENT OF REVENUE AND THE STATE DEPARTMENT SHALL EACH SUBMIT, AND PRESENT THE REPORTS AT THE SAME MEETING, ON ELECTRONIC BENEFITS TRANSFERS TO THE STATE, VETERANS, AND MILITARY AFFAIRS COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, THE HEALTH AND HUMAN SERVICES

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

COMMITTEE OF THE SENATE, AND THE PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES. THE REPORTS MUST LIST THE NUMBERS OF INSTANCES THAT A CLIENT ACCESSED CASH BENEFITS THROUGH THE ELECTRONIC BENEFITS TRANSFER SERVICE THROUGH AUTOMATED TELLER MACHINES LOCATED IN EACH TYPE OF ESTABLISHMENT DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2) OR ANY OTHER ESTABLISHMENT IN WHICH A CLIENT IS PROHIBITED FROM ACCESSING BENEFITS BY FEDERAL LAW.

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

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

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

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

(B) RETAIL ESTABLISHMENTS LICENSED TO SELL MALT, VINOUS, OR SPIRITUOUS LIQUORS PURSUANT TO PART 3 OF ARTICLE 47 OF TITLE 12, C.R.S.; AND

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

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

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

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

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

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

(D) A PROVISION THAT ANY ESTABLISHMENT DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (h) IS EXEMPT FROM THE REQUIREMENTS OF THE RULES ADOPTED PURSUANT TO SUB-SUBPARAGRAPHS (A) TO (C) OF THIS SUBPARAGRAPH (II) IF THE ESTABLISHMENT PROVIDES TO THE DEPARTMENT OF REVENUE A STATEMENT FROM THE OWNER OR OPERATOR OF EACH AUTOMATED TELLER MACHINE LOCATED WITHIN THE ESTABLISHMENT VERIFYING THAT THE MACHINE DOES NOT ACCEPT ELECTRONIC BENEFIT TRANSFER CARDS; EXCEPT THAT, IF ONE OR MORE VIOLATIONS OF SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (2) OCCUR AT ANY SUCH ESTABLISHMENT, THE DEPARTMENT

OF REVENUE MAY TAKE MEASURES TO PREVENT FUTURE VIOLATIONS, INCLUDING INCREASING PENALTIES FOR MULTIPLE VIOLATIONS, NOT TO EXCEED ONE HUNDRED DOLLARS PER VIOLATION.

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

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

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

(B) RETAIL ESTABLISHMENTS LICENSED TO SELL MALT, VINOUS, OR SPIRITUOUS LIQUORS PURSUANT TO PART 3 OF ARTICLE 47 OF TITLE 12, C.R.S.;

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

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

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

(A) A REQUIREMENT THAT THE OPERATOR OF ANY ESTABLISHMENT DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (h) AT WHICH AN AUTOMATED TELLER MACHINE IS LOCATED POST A SIGN ON OR NEAR THE

AUTOMATED TELLER MACHINE NOTIFYING CLIENTS THAT THIS SECTION PROHIBITS THE USE OF AN ELECTRONIC BENEFITS SERVICE TRANSFER CARD AT THE MACHINE. THE SIGN MUST CONTAIN THE FOLLOWING STATEMENT:

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

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

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

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

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

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

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

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

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Bill L. Cadman
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO