



**House
Legislative
Analysis
Section**

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FOOD STAMP FRAUD

**House Bills 5093 and 5094 as passed by the
House
Second Analysis (1-4-90)**

**Sponsor: Rep. Burton Leland
Committee: Social Services & Youth**

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THE APPARENT PROBLEM:

Under the federal Children Nutrition Act, the Woman, Infant and Children (WIC) program has been established to provide preventative health maintenance for pregnant women and nutritional assistance for women and children who are socially and economically disadvantaged. A nutrition prescription is provided for women who have children under the age of five in the form of coupons and certificates. The coupons are redeemable by the bearer for a certain amount of various food items. The seller of the food items is supposed to tally up the total dollar value for the items purchased and the amount of each item purchased and is supposed to include this information on the coupons in order to redeem the coupons for their dollar value from the Department of Social Services. However, in some areas convenience store owners consistently cheat their customers by overcharging for various food items, thereby leaving customers with fewer coupons to use to maintain their nutrition. In one WIC investigation, the investigators found that some merchants overcharged their customers three times out of the three times investigators used WIC coupons.

Under the federal Food Stamp Act, food stamps are only redeemable for consumable items. However, in some areas where use of food stamps is common, food stamps are redeemed for money or other items, such as alcohol or cigarettes. In addition, food stamps are used as a black market currency, whereby a person who wants cash can "sell" thousands of dollars worth of food stamps to an unscrupulous merchant for 30—40 percent of the face value of the stamps.

Many people feel that there should be a stronger disincentive for illegal redemption of food stamps and WIC coupons in order to address the two problems mentioned above. Legislation has been introduced in order to provide a strong disincentive to store owners for violation of the acts.

THE CONTENTS OF THE BILLS:

House Bill 5093 would amend the Lottery Act to specify that the Commissioner of State Lottery could suspend or revoke the license of a lottery sales agent who intentionally redeemed food stamps other than as authorized under the federal Food Stamp Act or intentionally redeemed coupons and certificates other than as authorized under the federal Child Nutrition Act. The bill requires the Department of Social Services to notify the commissioner in cases of a violation of the Food Stamp Act, and the Department of Public Health would notify the commissioner in cases of violation of the Child Nutrition Act.

House Bill 5094 would amend the Michigan Liquor Control Act to specify that the Liquor Control Commission could suspend or revoke a liquor license if the licensee intentionally redeemed food stamps other than as authorized under the federal Food Stamp Act or

intentionally redeemed coupons or certificates other than as authorized under the Child Nutrition Act. The DSS would notify the Liquor Control Commission of violations of the Food Stamp Act, and the Department of Public Health would notify the commission of violations of the Child and Nutrition Act.

BACKGROUND INFORMATION:

Due to limited federal resources to combat food stamp fraud, within the past few years the federal government has encouraged states to enforce food stamp and WIC regulations. During January of 1989 Michigan decided to enforce the Food Stamp Act's provisions and provisions of the WIC Act by establishing within the state's penal code new penalty provisions for violation of the acts. Since the Department of Social Services has been chosen as the regulatory agency for the acts, it is expected that there will probably more cases of violations of the Food Stamp Act and the Child Nutrition Act reported to the Lottery Bureau and the Liquor Control Commission.

FISCAL IMPLICATIONS:

According to the Lottery Bureau and the Liquor Control Commission, the fiscal implications of the bill cannot be determined at this time; the number of violations that will be addressed cannot be estimated. (11-13-89)

ARGUMENTS:

For:

It is believed that liquor sales and lottery ticket sales are a substantial portion of the average store owner's business in areas where food stamps and WIC coupons are commonly used. The bills will provide store owners with a strong disincentive to commit food stamp fraud and thus jeopardize their main sources of income. In addition, the bills will provide for stronger enforcement of the acts through the enhancement of communication between the departments, the lottery bureau and the Liquor Control Commission.

Against:

Both the lottery bureau and the Liquor Control Commission currently have the authority to revoke the license of any person who is convicted of criminal action. Therefore, the bill is unnecessary. Further, the purpose of the lottery bureau is to generate funds, not to be a regulatory or enforcement agency, and it should not have those roles forced upon it; nor should the Liquor Control Commission. (Note: Currently, the Liquor Control Commission can revoke or suspend a license when a licensee is convicted of criminal action. However, it is questionable whether the commission could revoke or suspend a license if the licensee is determined to be guilty of a violation under the administrative rules procedure because the procedure would not involve criminal action. An amendment is needed to address this ambiguity.)

H.B. 5093 (1-4-90)

Against:

The term "intentional" is too vague as used in the bill and will lead to inconsistent enforcement of the bills. For example, since the bills do not clarify what constitutes "intentional" behavior, it could be possible for a store owner to be subject to a revoked license even if the owner simply misdated a coupon or transposed numbers on a coupon.

Response: If a store owner did not consistently transpose numbers on a coupon or misdate coupons, the owner would probably be assumed to have unintentionally violated the bills. Consistent disregard for the law is considered to be intentional, and that kind of behavior is the behavior which the bills are intended to help curtail.

POSITIONS:

The Department of Social Services supports the bills. (11-13-89)

The Department of State Police supports the bills. (11-13-89)

The Department of Public Health supports House Bill 5093. (1-4-89)

The Lottery Bureau takes no position on the bills. (11-13-89)

The Liquor Control Commission takes no position on the bills. (11-13-89)