



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 434 (Substitute S-2 as passed by the Senate)
Senate Bill 435 (Substitute S-2 as passed by the Senate)
Senate Bill 436 (Substitute S-2 as passed by the Senate)
Senate Bill 554 (Substitute S-2 as passed by the Senate)
Senate Bill 555 (Substitute S-3 as passed by the Senate)
Senate Bill 556 (Substitute S-3 as passed by the Senate)
Sponsor: Senator Rick Jones
Committee: Banking and Financial Institutions

Date Completed: 10-25-13

RATIONALE

A Michigan bridge card provides for electronic access to public cash assistance benefits. Similar to debit and credit cards, bridge cards may be used to obtain cash assistance funds from point of sale devices and automated teller machines (ATMs). The Department of Human Services (DHS) administers Michigan bridge cards and cash assistance funds.

Currently, the Department is required to work with ATM service providers to prevent a bridge card holder from withdrawing cash assistance funds from an ATM located in a casino. It has been suggested that the DHS also should work with other entities, to prevent access to cash assistance funds at adult entertainment establishments, race tracks, and certain liquor stores, as well as casinos.

CONTENT

The bills would amend different statutes to require a financial institution, certain liquor retailers, a track license holder, and an adult entertainment establishment to work with the Department of Human Services to ensure that an individual could not obtain cash benefits from a Michigan bridge card through a point of sale device, or withdrawal from an ATM, at certain locations.

"Michigan bridge card" would mean the card that is used to distribute cash benefits by the DHS.

The bills would take effect on February 1, 2014.

Senate Bills 434 (S-2), 435 (S-2), and 436 (S-2)

The bills would require a financial institution that owned, operated, or managed an ATM located on the premises of a casino, a casino enterprise, a liquor store (other than a retail food store), or an adult entertainment establishment to work with the DHS to ensure that an ATM did not allow an individual access to cash benefits from a Michigan bridge card.

Senate Bill 434 (S-2) would amend the Credit Union Act and apply to a domestic credit union.

Senate Bill 435 (S-2) would amend the Savings Bank Act and apply to a savings bank.

Senate Bill 436 (S-2) would amend the Banking Code and apply to a bank.

The bills would define "adult entertainment establishment" as either of the following: 1) an on-premises licensee that holds a topless activity permit under the Michigan Liquor Control Code; or 2) any other retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

The bills also would incorporate the definitions of "casino", "casino enterprise", and "gaming" from the Michigan Gaming Control and Revenue Act. (That Act defines "casino" as a building in which gambling is conducted. "Casino enterprise" means the buildings, facilities, or rooms functionally or physically connected to a casino, including any bar, restaurant, hotel, cocktail lounge, retail establishment, or arena or any other facility located in a city under the control of a casino licensee or affiliated company. "Gaming" means to deal, operate, carry on, conduct, maintain or expose or offer for play any gambling game or gambling operation.)

"Casino" and "casino enterprise" would not include the following: 1) a grocery store that sells groceries, including staple foods, and is located in a casino or casino enterprise; or 2) any other business establishment that offers gaming that is incidental to the principal purpose of that establishment. The bills would incorporate the definition of "staple foods" from Title 7 of the U.S. Code. (Under Title 7, "staple foods" are foods in the following categories: meat, poultry, or fish; bread or cereals; vegetables or fruits; and dairy products. The term does not include accessory food items.)

"Liquor store" would mean a retailer, as defined in the Liquor Control Code, that is exclusively or primarily engaged in the sale of alcoholic liquor. The term would not include a retailer that was a retail food store.

"Retail food store" would mean that term as defined in 7 U.S.C. 2012. (That definition includes an establishment or house-to-house trade route that sells food for home preparation and consumption and, as determined by visual inspection, sales records, purchase records, counting of stockkeeping units, or other inventory or accounting recordkeeping methods that are customary or reasonable in the retail food industry, either: 1) offers for sale, on a continuous basis, a variety of foods in each of the four categories of staple foods, including perishable foods in at least two of the categories; or 2) has over 50% of the total sales of the establishment or route in staple foods.)

"Alcoholic liquor" also would mean that term as defined in the Liquor Control Code.

Senate Bills 554 (S-2) and 555 (S-3)

The bills would require a track license holder and a liquor store to work with the DHS, and with providers of point of sale device or ATM services on the licensee's or retailer's premises, to prevent an individual's access to cash benefits from Michigan bridge cards through a point of sale device or withdrawal from an ATM on the retailer's or license holder's premises.

Senate Bill 554 (S-2) would amend the Horse Racing Law and apply to a track license holder.

Senate Bill 555 (S-3) would amend the Michigan Liquor Control Code and apply to a liquor retailer that was not a retail food store (as defined in 7 U.S.C. 2012).

Senate Bill 556 (S-3)

The bill would amend the Social Welfare Act to require the DHS to work with ATM service providers to create and implement a program or method of blocking access to cash benefits from Michigan bridge cards through point of sale devices and ATMs located in casinos, casino enterprises, adult entertainment establishments, and liquor stores. Currently, DHS must work with ATM service providers to block access to cash benefits from bridge cards at ATMs in casinos or casino enterprises.

The terms "adult entertainment establishment", "alcoholic liquor", "casino", "casino enterprise", and "liquor store", would have the same meanings as described above.

Proposed MCL 490.413 (S.B. 434)
487.346 (S.B. 435)
487.14110 (S.B. 436)
531.309b (S.B. 554)
436.2024 (S.B. 555)
MCL 500.57v (S.B. 556)

BACKGROUND

On February 22, 2012, the Federal Middle Class Tax Relief and Job Creation Act was enacted. Section 4004 of the Act prescribes spending policy requirements for assistance under State Temporary Assistance for Needy Families (TANF) programs, which are funded through Federal grants. A state must maintain policies and practices necessary to prevent TANF funds from being used in any electronic benefit transfer transaction in any liquor store, casino, casino establishment, or adult entertainment establishment. By February 22, 2014, if a state has not reported on implementation of these policies and practices, the state could face up to a 5% reduction in TANF funding.

In Michigan, Public Act 197 of 2012 required the Department of Human Services to work with ATM service providers to create and implement a program or method of blocking Michigan bridge card access to cash benefits from ATMs located in casinos or casino enterprises. The Act was in response to the discovery that from July 2009 to July 2010, ATMs located in a Detroit casino had dispensed approximately \$87,000 in cash assistance benefits to bridge card holders.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bills would follow up on efforts made in 2012 to ensure that public assistance is not abused. Cash assistance benefits are intended to support struggling families and feed children, and should not be used for gambling, liquor purchases, or adult entertainment. Spending cash assistance on these activities is an inappropriate use of taxpayer money and undermines the purpose of public assistance.

Supporting Argument

The bills could provide more certainty as to Michigan's eligibility for 100% of TANF funding. Since Michigan bridge cards can provide access to TANF funds, the State could face up to a 5% reduction in TANF funds if its policy and practices do not satisfy Federal requirements under the Middle Class Tax Relief and Job Creation Act by February 2014. Arguably, current Michigan policy and practice might not meet those requirements. Requiring financial institutions to work with the DHS to prevent ATM access to cash assistance benefits in casinos, liquor stores, and adult entertainment establishments, could further secure TANF funding.

Opposing Argument

The bills would increase the burden on people who are already in need of public assistance and limit the availability of cash assistance. Reportedly, in some urban areas, people do not have immediate or convenient access to an ATM that is not located in a liquor store. Under the bills, some people would have to travel miles to obtain cash assistance through an ATM that was not located in a liquor store. Some people would be forced to walk if they cannot afford to own a car or carry car insurance, and public transportation sometimes can be unreliable.

Legislative Analyst: Glenn Steffens

FISCAL IMPACT

If current policies and practices are not sufficient to be in compliance with Federal law, the State could be subjected to a penalty that would reduce the Federal Temporary Assistance for Needy

Families block grant by up to 5.0%, or \$38.8 million Gross.

In addition, Senate Bills 554 (S-2), 555 (S-3), and 556 (S-3) would increase State spending by a minimum of \$120,000 Gross per year. The scope of services required by the bills, however, could result in additional, as of yet undetermined, costs in the State's third-party contract, or minimal increased costs for administrative or information technology-related activities at the State level.

Currently, the Department of Human Services has a five-year contract with Xerox to provide electronic benefit transfer (EBT) services and functions to support the electronic delivery of cash and food assistance benefits to recipients throughout the State. Xerox is not the sole broker to determine whether an ATM or point of sale device can provide EBT services and cash benefits, however. Retailers enter into contracts with third party processors (which are generally financial institutions) and can request that ATMs and point of sale devices in their establishments block access to cash benefits.

The contract with Xerox included an estimate of \$10,000 per month "to block cash withdrawals from certain retailers and/or ATMs". The State has not yet used this optional service, however. Current statute requires the Department to block access to cash benefits in the State's 26 casinos (MCL 400.57v), but the casinos have taken on the responsibility to block access. While the State has not yet implemented this optional \$10,000-per-month service, the bills would result in implementation of the service.

Potential cost increases include expenditures in excess of the estimate provided in Xerox's contract, as well as possible information technology or administrative expenditures. The bills would significantly increase the number of retailers that would be blocked from providing cash benefits, which could affect the Xerox contract. The DHS website provides a list of all locations that include ATMs with the Quest logo, where cash benefits can be withdrawn. The list is 175 pages long and includes approximately 13,000 vendors. As an example of the potential increase in scope of services, 285 of these vendors have the word "liquor" in the name of the store. The Michigan Liquor Control Commission reported 8,006 off-premises licensed businesses that sell beer, wine, and spirits, but the Commission does not have a way to distinguish whether the businesses are primarily liquor stores. While the bills would not require additional tracking mechanisms for enforcement, implementation of the legislation could result in some minimal administrative or information technology-related costs.

There would be no increased costs to the State or local units of government from provisions in Senate Bills 554 (S-3) and 555 (S-3) that would require the track license holders and liquor store owners to work with the Department, ATM providers, and point of sale device providers to ensure that cash benefits could not be obtained through ATMs or point of sale devices at their locations.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.