



Senate Fiscal Agency
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BILL ANALYSIS



Telephone: (517) 373-5383
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Senate Bills 434 and 556 (as enacted)
House Bills 4858 and 4859 (as enacted)
House Bills 5014 and 5015 (as enacted)
Sponsor: Senator Rick Jones (S.B. 434 & 435)

Representative Margaret E. O'Brien (H.B. 4858 & 4859)
Representative Dale W. Zorn (H.B. 5014 & 5015)

Senate Committee: Banking and Financial Institutions (S.B. 434 & 556)
House Committee: Families, Children, and Seniors

PUBLIC ACTS 193 & 194 of 2013
PUBLIC ACTS 195 & 196 of 2013
PUBLIC ACTS 197 & 198 of 2013

Date Completed: 2-7-14

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 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. Legislation was enacted in 2012 to require the Department 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 was 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.

CONTENT

The bills amended 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 cannot obtain cash benefits from a Michigan Bridge Card through a point of sale device, or withdrawal from an ATM, at certain locations.

Senate Bill 434 and each of the House bills define "Michigan bridge card" as the card that is used to distribute cash benefits by the DHS.

All of the bills took effect on February 1, 2014.

Senate Bill 434 and House Bills 4858 & 4859

The bills require a financial institution that owns, operates, or manages 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 does not allow an individual access to cash benefits from a Michigan Bridge Card.

Senate Bill 434 amended the Credit Union Act and applies to a domestic credit union.

House Bills 4858 and 4859 amended the Banking Code and the Savings Bank Act, respectively, and apply to a bank and a savings bank.

Each of the bills defines "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 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.)

The bills specify that "casino" and "casino enterprise" do 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 define "liquor store" as a retailer, as defined in the Liquor Control Code, that is exclusively or primarily engaged in the sale of alcoholic liquor. Under the bills, the term does not include a retailer that is a retail food store.

The bills define "retail food store" as that term is defined in 7 USC 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.)

House Bills 5014 and 5015

House Bill 5014 amended the Michigan Liquor Control Code to require a liquor retailer to work with the DHS and with providers of ATM services on the 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 premises. The bill applies to a liquor retailer that is not a retail food store (as defined in 7 USC 2012).

House Bill 5015 amended the Horse Racing Law to require a track license holder to work with the DHS and with providers of point of sale device or ATM services on the licensee'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 license holder's premises.

Senate Bill 556

The bill amended the Social Welfare Act to require the DHS to work with providers of ATM services 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. Previously, the DHS was required to work with ATM service providers to block access to cash benefits from Bridge Cards at ATMs in casinos or casino enterprises.

The bill defines "adult entertainment establishment", "casino", "casino enterprise", "liquor store", and "retail food store" as described above.

MCL 490.413 (S.B. 434)
500.57v (S.B. 556)
487.14110 (H.B. 4858)
487.3436 (H.B. 4859)
436.2024 (H.B. 5014)
531.309b (H.B. 5015)

BACKGROUND

On February 22, 2012, the Middle Class Tax Relief and Job Creation Act was enacted at the Federal level. 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 amended the Social Welfare Act to require 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 a 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 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 should 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 have faced up to a 5% reduction in TANF funds if its policy and practices did not satisfy Federal requirements under the Middle Class Tax Relief and Job Creation Act by February 22, 2014. Arguably, prior Michigan policy and practice might not have met 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, will help secure TANF funding.

Opposing Argument

By limiting access to cash assistance, the bills increase the burden on people who are already in need of public 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 might have to travel miles to obtain cash assistance through an ATM that is not located in a liquor store. Some of those people will be forced to walk if they cannot afford to own a car or pay for auto insurance, and cannot rely on public transportation.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills may increase State spending by a minimum of \$120,000 Gross per year. The actual costs will be determined by the implementation of the legislation and whether the Department of Human Services will realize additional administrative or information technology-related costs as a result of the requirements to work with track license holders, liquor retailers, banks, and savings banks to prevent Michigan Bridge Card access at ATMs or point of sale devices that are located in the given establishments.

Currently, the Department 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 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 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. Although the statute has required the Department to block access to cash benefits in the State's 22 casinos (MCL 400.57v), 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 may result in implementation of the additional service and fee.

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 significantly increase the number of retailers that will 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 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 do not require additional tracking mechanisms for enforcement, implementation of the legislation may result in some minimal administrative or information technology-related costs.

If Michigan's policies and practices were not sufficient to be in compliance with Federal law, the State could have been 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.

The bills will not result in increased costs to local units of government.

Fiscal Analysts: Frances Carley

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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.