

2386

2013-2014 Regular Sessions

I N   A S S E M B L Y

January 14, 2013

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Introduced by M. of A. CUSICK, SIMANOWITZ -- read once and referred to  
the Committee on Social Services

AN ACT to amend the social services law, in relation to prohibiting the  
sale or purchase of alcoholic beverages, tobacco products or lottery  
tickets with public assistance benefits and prohibiting use of or  
access to such benefits in a casino, liquor store or adult enter-  
tainment facility; and to amend the state finance law, in relation to  
establishing the public assistance integrity fund

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "public assistance integrity act".  
3     S 2. The social services law is amended by adding two new sections  
4     147-a and 147-b to read as follows:  
5     S 147-A. PENALTIES FOR THE PURCHASE OR SALE OF ALCOHOLIC BEVERAGES,  
6     TOBACCO PRODUCTS OR LOTTERY TICKETS WITH PUBLIC ASSISTANCE BENEFITS. 1.  
7     FOR THE PURPOSES OF THIS SECTION, "PUBLIC ASSISTANCE BENEFITS" MEANS  
8     MONEY OR PROPERTY PROVIDED DIRECTLY OR INDIRECTLY THROUGH PROGRAMS OF  
9     THE FEDERAL GOVERNMENT, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF,  
10    AND ADMINISTERED BY THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE OR  
11    SOCIAL SERVICES DISTRICTS.  
12    2. NO RECIPIENT OF PUBLIC ASSISTANCE BENEFITS SHALL USE ALL OR ANY  
13    PORTION OF SUCH BENEFITS FOR THE PURCHASE OF ANY ALCOHOLIC BEVERAGE,  
14    TOBACCO PRODUCT OR LOTTERY TICKET. ANY PERSON WHO VIOLATES THE  
15    PROVISIONS OF THIS SUBDIVISION SHALL UPON THE FIRST SUCH VIOLATION BE  
16    DISQUALIFIED FROM RECEIVING PUBLIC ASSISTANCE BENEFITS BY MEANS OF  
17    DIRECT CASH PAYMENT OR ELECTRONIC BENEFITS TRANSFER ACCESS DEVICE FOR A  
18    PERIOD OF ONE MONTH, UPON A FINDING OF A SECOND SUCH VIOLATION BE  
19    DISQUALIFIED FROM RECEIVING PUBLIC ASSISTANCE BENEFITS BY MEANS OF  
20    DIRECT CASH PAYMENT OR ELECTRONIC BENEFITS TRANSFER ACCESS DEVICE FOR A  
21    PERIOD OF THREE MONTHS, AND UPON A FINDING OF A THIRD OR SUBSEQUENT SUCH

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD05269-01-3

1 VIOLATION SHALL BE PERMANENTLY DISQUALIFIED FROM RECEIVING PUBLIC  
2 ASSISTANCE BENEFITS BY MEANS OF DIRECT CASH PAYMENT OR ELECTRONIC BENE-  
3 FITS TRANSFER ACCESS DEVICE. SUCH PERSON SHALL HAVE THE RIGHT TO A FAIR  
4 HEARING PURSUANT TO SECTION TWENTY-TWO OF THIS CHAPTER. NOTWITHSTANDING  
5 ANY PROVISION OF THIS CHAPTER OR ANY OTHER LAW TO THE CONTRARY, NO  
6 APPLICANT FOR PUBLIC ASSISTANCE BENEFITS SHALL BE APPROVED UNLESS HE OR  
7 SHE ATTESTS TO THE FACT THAT ALCOHOLIC BEVERAGES, TOBACCO PRODUCTS AND  
8 LOTTERY TICKETS ARE PRODUCTS WHICH ARE PROHIBITED FROM BEING PURCHASED  
9 WITH SUCH BENEFITS PURSUANT TO THIS SECTION. SUCH ATTESTATION SHALL BE  
10 IN A FORM PRESCRIBED BY THE COMMISSIONER OF TEMPORARY AND DISABILITY  
11 ASSISTANCE.

12 3. NO PERSON ENGAGED IN RETAIL SALES, OR ANY AGENT OR EMPLOYEE THERE-  
13 OF, SHALL SELL OR OFFER FOR SALE ANY ALCOHOLIC BEVERAGE, TOBACCO PRODUCT  
14 OR LOTTERY TICKET TO ANY OTHER PERSON IN EXCHANGE FOR OR FOR CONSIDER-  
15 ATION OF PUBLIC ASSISTANCE BENEFITS BY MEANS OF AN ELECTRONIC BENEFITS  
16 TRANSFER ACCESS DEVICE. ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS  
17 SUBDIVISION SHALL BE SUBJECT TO A CIVIL FINE OF ONE HUNDRED DOLLARS FOR  
18 THE FIRST SUCH VIOLATION, A CIVIL FINE OF FIVE HUNDRED DOLLARS FOR THE  
19 SECOND SUCH VIOLATION WITHIN ANY FIVE YEAR PERIOD OF TIME, AND UPON A  
20 FINDING OF A THIRD OR A SUBSEQUENT VIOLATION WITHIN ANY FIVE YEAR PERIOD  
21 OF TIME THE LICENSE, PERMIT OR CERTIFICATION ISSUED TO SUCH PERSON  
22 PURSUANT TO THE ALCOHOLIC BEVERAGE CONTROL LAW, AND/OR ARTICLE TWENTY  
23 AND/OR ARTICLE THIRTY-FOUR OF THE TAX LAW SHALL BE SUSPENDED.

24 4. IN ANY PROCEEDING BROUGHT AGAINST THE OPERATOR OF A RETAIL BUSINESS  
25 ENGAGED IN RETAIL SALES, PURSUANT TO SUBDIVISION THREE OF THIS SECTION  
26 WHEN THE UNLAWFUL SALE WAS MADE BY AN AGENT OR EMPLOYEE OF THE OPERATOR  
27 OF SUCH BUSINESS, IT SHALL BE AN AFFIRMATIVE DEFENSE IN FAVOR OF SUCH  
28 OPERATOR THAT, AT THE TIME OF SUCH ALLEGED VIOLATION, THE BUSINESS OPER-  
29 ATOR CAN AND DOES PRODUCE PROOF THAT THE AGENT OR EMPLOYEE WHO COMMITTED  
30 SUCH VIOLATION COMPLETED A TRAINING PROGRAM ESTABLISHED PURSUANT TO  
31 SUBDIVISION FIVE OF THIS SECTION.

32 5. A. THE COMMISSIONER OF TEMPORARY AND DISABILITY ASSISTANCE SHALL  
33 PROMULGATE RULES AND REGULATIONS THAT WOULD DEVELOP AND ESTABLISH CRITE-  
34 RIA FOR TRAINING PROGRAMS ON THE PROHIBITION ON THE SALE AND PURCHASE OF  
35 ALCOHOLIC BEVERAGES, TOBACCO PRODUCTS AND LOTTERY TICKETS IN EXCHANGE  
36 FOR PUBLIC ASSISTANCE BENEFITS. SUCH TRAINING MAY BE GIVEN AND ADMINIS-  
37 TERED BY SCHOOLS; OTHER ENTITIES INCLUDING TRADE ASSOCIATIONS WHOSE  
38 MEMBERS ARE ENGAGED IN THE RETAIL SALE OF ALCOHOLIC BEVERAGES, TOBACCO  
39 PRODUCTS AND/OR LOTTERY TICKETS; AND NATIONAL AND REGIONAL FRANCHISORS  
40 WITH AT LEAST FIVE FRANCHISES IN THE STATE WHICH ENGAGE IN THE SALES OF  
41 ALCOHOLIC BEVERAGES, TOBACCO PRODUCTS AND/OR LOTTERY TICKETS. THE OFFICE  
42 OF TEMPORARY AND DISABILITY ASSISTANCE SHALL PROVIDE FOR THE ISSUANCE OF  
43 CERTIFICATES OF APPROVAL TO ALL CERTIFIED TRAINING PROGRAMS ON THE  
44 PROHIBITION ON THE SALE AND PURCHASE OF ALCOHOLIC BEVERAGES, TOBACCO  
45 PRODUCTS AND/OR LOTTERY TICKETS IN EXCHANGE FOR PUBLIC ASSISTANCE BENE-  
46 FITS. CERTIFICATES OF APPROVAL MAY BE REVOKED BY THE OFFICE OF TEMPORARY  
47 AND DISABILITY ASSISTANCE FOR FAILURE TO ADHERE TO THE COMMISSIONER'S  
48 RULES AND REGULATIONS. SUCH RULES AND REGULATIONS SHALL AFFORD THOSE WHO  
49 HAVE BEEN ISSUED A CERTIFICATE OF APPROVAL AN OPPORTUNITY FOR A HEARING  
50 PRIOR TO ANY DETERMINATION OF WHETHER SUCH CERTIFICATE SHOULD BE  
51 REVOKED. THE COMMISSIONER OF TEMPORARY AND DISABILITY ASSISTANCE SHALL  
52 ADOPT RULES TO EFFECTUATE THE PROVISIONS OF THIS SUBDIVISION, INCLUDING  
53 MINIMUM REQUIREMENTS FOR THE CURRICULUM OF EACH SUCH TRAINING PROGRAM  
54 AND THE REGULAR TRAINING OF AGENTS AND EMPLOYEES HOLDING CERTIFICATES OF  
55 COMPLETION OR RENEWAL CERTIFICATES.

1 B. TO EFFECTUATE THE PROVISIONS OF THIS SUBDIVISION, THE OFFICE OF  
2 TEMPORARY AND DISABILITY ASSISTANCE IS EMPOWERED TO REQUIRE IN  
3 CONNECTION WITH AN APPLICATION THE SUBMISSION OF SUCH INFORMATION AS  
4 SUCH OFFICE MAY DIRECT; TO PRESCRIBE FORMS OF APPLICATIONS AND OF ALL  
5 REPORTS IT DEEMS NECESSARY TO BE MADE BY ANY APPLICANT OR CERTIFICATE  
6 HOLDER; TO CONDUCT INVESTIGATIONS, TO REQUIRE MAINTENANCE OF SUCH BOOKS  
7 AND RECORDS AS SUCH OFFICE MAY DIRECT; AND TO CANCEL, REVOKE OR SUSPEND  
8 FOR CAUSE ANY CERTIFICATE PROVIDED FOR IN THIS SUBDIVISION.

9 C. EACH ENTITY AUTHORIZED TO GIVE AND ADMINISTER A TRAINING PROGRAM ON  
10 THE PROHIBITION ON THE SALE AND PURCHASE OF ALCOHOLIC BEVERAGES, TOBACCO  
11 PRODUCTS AND LOTTERY TICKETS IN EXCHANGE FOR PUBLIC ASSISTANCE BENEFITS  
12 SHALL ISSUE CERTIFICATES OF COMPLETION TO ALL PERSONS ENGAGED IN RETAIL  
13 SALES, AND THE AGENTS AND EMPLOYEES THEREOF WHO SUCCESSFULLY COMPLETE  
14 SUCH APPROVED TRAINING PROGRAM. SUCH ENTITY SHALL REGULARLY TRANSMIT TO  
15 THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE THE NAMES, ADDRESSES  
16 AND DATES OF ATTENDANCE OF ALL SUCH PERSONS, AGENTS AND EMPLOYEES WHO  
17 SUCCESSFULLY COMPLETE AN APPROVED TRAINING PROGRAM. SUCH TRANSMITTAL  
18 SHALL BE IN A FORM AND MANNER PRESCRIBED BY SUCH OFFICE. A CERTIFICATE  
19 OF COMPLETION OR RENEWAL THEREOF ISSUED BY AN ENTITY AUTHORIZED TO GIVE  
20 AND ADMINISTER A TRAINING PROGRAM PURSUANT TO THIS SUBDIVISION TO  
21 PERSONS ENGAGED IN RETAIL SALES, AND THE AGENTS AND EMPLOYEES THEREOF  
22 SHALL NOT BE INVALIDATED BY A CHANGE OF EMPLOYER. ATTENDANCE AT ANY  
23 COURSE ESTABLISHED PURSUANT TO THIS SUBDIVISION SHALL BE IN PERSON,  
24 THROUGH DISTANCE LEARNING METHODS OR THROUGH AN INTERNET BASED ONLINE  
25 PROGRAM. EACH CERTIFICATE OF APPROVAL, RENEWAL AND COMPLETION THEREOF  
26 SHALL BE ISSUED FOR A PERIOD OF THREE YEARS.

27 S 147-B. PROHIBITION OF USE OF PUBLIC ASSISTANCE BENEFITS IN CERTAIN  
28 FACILITIES. 1. FOR THE PURPOSES OF THIS SECTION:

29 A. "ELECTRONIC BENEFIT TRANSFER TRANSACTION" MEANS THE USE OF A CREDIT  
30 CARD OR DEBIT CARD SERVICE, AUTOMATED TELLER MACHINE, POINT-OF-SALE  
31 TERMINAL OR ACCESS TO AN ONLINE SYSTEM FOR THE WITHDRAWAL OF FUNDS OR  
32 THE PROCESSING OF A PAYMENT FOR MERCHANDISE OR A SERVICE.

33 B. "CASINO" MEANS ANY CASINO, GAMING ESTABLISHMENT OR GAMBLING CASINO,  
34 BUT SHALL NOT INCLUDE:

35 (I) ANY RETAIL STORE WHICH SELLS GROCERIES INCLUDING STAPLE FOODS  
36 (WITHIN THE MEANING OF SECTION 3(R) OF THE FOOD AND NUTRITION ACT OF  
37 2008 (7 U.S.C. 2012 (R))), AND WHICH ALSO OFFERS OR IS LOCATED WITHIN THE  
38 SAME BUILDING OR COMPLEX AS CASINO, GAMBLING OR GAMING ACTIVITIES; OR

39 (II) ANY OTHER ESTABLISHMENT THAT OFFERS CASINO, GAMBLING OR GAMING  
40 ACTIVITIES INCIDENTAL TO THE PRINCIPAL PURPOSE OF THE BUSINESS OF SUCH  
41 ESTABLISHMENT.

42 C. "LIQUOR STORE" MEANS ANY RETAIL ESTABLISHMENT WHICH EXCLUSIVELY OR  
43 PRIMARILY SELLS ALCOHOLIC BEVERAGES. SUCH TERM SHALL NOT INCLUDE ANY  
44 GROCERY STORE WHICH SELLS BOTH ALCOHOLIC BEVERAGES AND STAPLE FOODS  
45 (WITHIN THE MEANING OF SECTION 3(R) OF THE FOOD AND NUTRITION ACT OF  
46 2008 (7 U.S.C. 2012 (R))).

47 D. "PUBLIC ASSISTANCE BENEFITS" MEANS MONEY OR PROPERTY PROVIDED  
48 DIRECTLY OR INDIRECTLY THROUGH PROGRAMS OF THE FEDERAL GOVERNMENT, THE  
49 STATE OR ANY POLITICAL SUBDIVISION THEREOF, AND ADMINISTERED BY THE  
50 OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE OR SOCIAL SERVICES  
51 DISTRICTS.

52 2. NO RECIPIENT OF PUBLIC ASSISTANCE BENEFITS SHALL BY MEANS OF AN  
53 ELECTRONIC BENEFIT TRANSFER TRANSACTION WITHDRAW OR USE SUCH BENEFITS IN  
54 ANY LIQUOR STORE, CASINO OR RETAIL ESTABLISHMENT WHICH PROVIDES  
55 ADULT-ORIENTED ENTERTAINMENT IN WHICH PERFORMERS DISROBE OR PERFORM IN  
56 AN UNCLOTHED STATE FOR ENTERTAINMENT. ANY PERSON WHO VIOLATES THE

1 PROVISIONS OF THIS SUBDIVISION SHALL UPON THE FIRST SUCH VIOLATION BE  
2 DISQUALIFIED FROM RECEIVING PUBLIC ASSISTANCE BENEFITS BY MEANS OF  
3 DIRECT CASH PAYMENT OR ELECTRONIC BENEFITS TRANSFER ACCESS DEVICE FOR A  
4 PERIOD OF ONE MONTH, UPON A FINDING OF A SECOND SUCH VIOLATION SHALL BE  
5 DISQUALIFIED FROM RECEIVING PUBLIC ASSISTANCE BENEFITS BY MEANS OF  
6 DIRECT CASH PAYMENT OR ELECTRONIC BENEFITS TRANSFER ACCESS DEVICE FOR A  
7 PERIOD OF THREE MONTHS, AND UPON A FINDING OF A THIRD OR SUBSEQUENT SUCH  
8 VIOLATION SHALL BE PERMANENTLY DISQUALIFIED FROM RECEIVING PUBLIC  
9 ASSISTANCE BENEFITS BY MEANS OF DIRECT CASH PAYMENT OR ELECTRONIC BENE-  
10 FITS TRANSFER ACCESS DEVICE. SUCH PERSON SHALL HAVE THE RIGHT TO A FAIR  
11 HEARING PURSUANT TO SECTION TWENTY-TWO OF THIS CHAPTER.

12 3. THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE SHALL ESTABLISH  
13 AND IMPLEMENT RULES AND REGULATIONS PROHIBITING RECIPIENTS OF PUBLIC  
14 ASSISTANCE BENEFITS, BY MEANS OF ANY ELECTRONIC BENEFIT TRANSFER TRANS-  
15 ACTION, FROM WITHDRAWING OR USING ANY SUCH BENEFITS IN ANY LIQUOR STORE,  
16 CASINO OR RETAIL ESTABLISHMENT WHICH PROVIDES ADULT-ORIENTED ENTER-  
17 TAINMENT IN WHICH PERFORMERS DISROBE OR PERFORM IN AN UNCLOTHED STATE  
18 FOR ENTERTAINMENT.

19 S 3. The state finance law is amended by adding a new section 85 to  
20 read as follows:

21 S 85. PUBLIC ASSISTANCE INTEGRITY FUND. 1. THERE IS HEREBY ESTABLISHED  
22 IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF  
23 TAXATION AND FINANCE A SPECIAL REVENUE FUND TO BE KNOWN AS THE "PUBLIC  
24 ASSISTANCE INTEGRITY FUND".

25 2. THE PUBLIC ASSISTANCE INTEGRITY FUND SHALL CONSIST OF MONIES  
26 RECEIVED BY THE STATE FROM FINES AND FEES IMPOSED PURSUANT TO SECTIONS  
27 ONE HUNDRED FORTY-SEVEN-A AND ONE HUNDRED FORTY-SEVEN-B OF THE SOCIAL  
28 SERVICES LAW, AND ALL OTHER MONIES APPROPRIATED, CREDITED OR TRANSFERRED  
29 THERETO FROM ANY OTHER FUND OR SOURCE.

30 3. MONIES OF THE PUBLIC ASSISTANCE INTEGRITY FUND, FOLLOWING APPROPRI-  
31 ATION THEREOF, SHALL BE SOLELY MADE AVAILABLE TO THE OFFICE OF TEMPORARY  
32 AND DISABILITY ASSISTANCE FOR EXPENDITURE FOR THE COSTS OF SUCH OFFICE  
33 ASSOCIATED WITH THE PREVENTION OF MISUSE OF PUBLIC ASSISTANCE BENEFITS  
34 INCLUDING, BUT NOT LIMITED TO, ADMINISTRATION, OVERSIGHT, TRAINING AND  
35 ENFORCEMENT RELATED ACTIVITIES.

36 S 4. This act shall take effect February 22, 2014; provided that,  
37 effective immediately, any actions necessary to implement the provisions  
38 of this act on its effective date are authorized and directed to be  
39 completed on or before such date.