

2386

2013-2014 Regular Sessions

I N A S S E M B L Y

January 14, 2013

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 entertainment 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 ASSEMBLY, 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.

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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.