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**SUBSTITUTE SENATE BILL 6386**

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**State of Washington**

**62nd Legislature**

**2012 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Carrell, Becker, Zarelli, Hargrove, Delvin, Schoesler, Honeyford, and Keiser)

READ FIRST TIME 02/03/12.

1           AN ACT Relating to fraud in state assistance programs; amending RCW  
2 74.08.580, 74.04.014, 9.91.140, and 9.91.142; adding a new section to  
3 chapter 74.08 RCW; creating new sections; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5           NEW SECTION. **Sec. 1.** The legislature finds that fraud associated  
6 with public assistance programs is a significant problem in the state  
7 of Washington. Therefore, the legislature encourages the office of  
8 fraud and accountability with the department of social and health  
9 services to coordinate with the office of the state auditor and the  
10 department of early learning to improve the prevention, detection, and  
11 prosecution of fraudulent activity taking place in public assistance  
12 programs. It is the purpose of this act to significantly reduce fraud  
13 and to ensure that public assistance dollars reach the intended  
14 populations in need.

15           **Sec. 2.** RCW 74.08.580 and 2011 1st sp.s. c 42 s 14 are each  
16 amended to read as follows:

17           (1) Any person receiving public assistance is prohibited from using

1 electronic benefit cards or cash obtained with electronic benefit  
2 cards:

3 (a) For the purpose of participating in any of the activities  
4 authorized under chapter 9.46 RCW;

5 (b) For the purpose of parimutuel wagering authorized under chapter  
6 67.16 RCW;

7 (c) To purchase lottery tickets or shares authorized under chapter  
8 67.70 RCW;

9 (d) For the purpose of participating in or purchasing any  
10 activities located in a tattoo, body piercing, or body art shop  
11 licensed under chapter 18.300 RCW;

12 (e) To purchase cigarettes as defined in RCW 82.24.010 or tobacco  
13 products as defined in RCW 82.26.010;

14 (f) To purchase any items regulated under Title 66 RCW; or

15 (g) For the purpose of purchasing or participating in any  
16 activities in any location listed in subsection (2) of this section.

17 (2) On or before January 1, 2012, the businesses listed in this  
18 subsection must disable the ability of ATM and point-of-sale machines  
19 located on their business premises to accept the electronic benefit  
20 card. The following businesses are required to comply with this  
21 mandate:

22 (a) Taverns licensed under RCW 66.24.330;

23 (b) Beer/wine specialty stores licensed under RCW 66.24.371;

24 (c) Nightclubs licensed under RCW 66.24.600;

25 (d) Contract liquor stores defined under RCW 66.04.010;

26 (e) Bail bond agencies regulated under chapter 18.185 RCW;

27 (f) Gambling establishments licensed under chapter 9.46 RCW;

28 (g) Tattoo, body piercing, or body art shops regulated under  
29 chapter 18.300 RCW;

30 (h) Adult entertainment venues with performances that contain  
31 erotic material where minors under the age of eighteen are prohibited  
32 under RCW 9.68A.150; and

33 (i) Any establishments where persons under the age of eighteen are  
34 not permitted.

35 (3) The department must notify the licensing authority of any  
36 business listed in subsection (2) of this section that such business  
37 has continued to allow the use of the electronic benefit card in  
38 violation of subsection (2) of this section.

1 (4) Only the recipient, an eligible member of the household, or the  
2 recipient's authorized representative may use an electronic benefit  
3 card or the benefit and such use shall only be for the respective  
4 benefit program purposes. Unless a recipient's family member is an  
5 eligible member of the household, the recipient's authorized  
6 representative, an alternative cardholder, or has been assigned as a  
7 protective payee, no family member may use the benefit card. The  
8 recipient shall not sell, or attempt to sell, exchange, or donate an  
9 electronic benefit card or any benefits to any other person or entity.

10 (5) The first violation of subsection (1) (~~(or (4))~~) of this  
11 section by a recipient constitutes a class 4 civil infraction under RCW  
12 7.80.120. Second and subsequent violations of subsection (1) (~~(or~~  
13 ~~(4))~~) of this section constitute a class 3 civil infraction under RCW  
14 7.80.120.

15 (a) The department shall notify, in writing, all recipients of  
16 electronic benefit cards that any violation of subsection (1) or (4) of  
17 this section could result in legal proceedings and forfeiture of all  
18 cash public assistance.

19 (b) Whenever the department receives notice that a person has  
20 violated subsection (1) (~~(or (4))~~) of this section, the department  
21 shall notify the person in writing that the violation could result in  
22 legal proceedings and forfeiture of all cash public assistance.

23 (c) The department shall assign a protective payee to the person  
24 receiving public assistance who violates subsection (1) (~~(or (4))~~) of  
25 this section two or more times.

26 (6) In assigning a personal identification number to an electronic  
27 benefit card, the department shall not use any sequence of numbers that  
28 appear on the card.

29 NEW SECTION. Sec. 3. A new section is added to chapter 74.08 RCW  
30 to read as follows:

31 A person who has in his or her possession or under his or her  
32 control electronic benefit cards issued in the names of two or more  
33 persons and who is not authorized to have any of the cards in his or  
34 her possession is guilty of a misdemeanor.

35 **Sec. 4.** RCW 74.04.014 and 2011 1st sp.s. c 42 s 24 are each  
36 amended to read as follows:

1 (1) In carrying out the provisions of this chapter, the office of  
2 fraud and accountability shall have prompt access to all individuals,  
3 records, electronic data, reports, audits, reviews, documents, and  
4 other materials available to the department of revenue, department of  
5 labor and industries, department of early learning, employment security  
6 department, department of licensing, and any other government entity  
7 that can be used to help facilitate investigations of fraud or abuse as  
8 determined necessary by the director of the office of fraud and  
9 accountability.

10 (2) The investigator shall have access to all child care records  
11 maintained by licensed and unlicensed child care providers with the  
12 consent of the provider or with a court order or valid search warrant.

13 (3) Information gathered by the department, the office, or the  
14 fraud ombudsman shall be safeguarded and remain confidential as  
15 required by applicable state or federal law. Whenever information or  
16 assistance requested under subsection (1) or (2) of this section is, in  
17 the judgment of the director, unreasonably refused or not provided, the  
18 director of the office of fraud and accountability must report the  
19 circumstances to the secretary immediately.

20 **Sec. 5.** RCW 9.91.140 and 2003 c 53 s 49 are each amended to read  
21 as follows:

22 A person who sells, attempts to sell, or exchanges food stamps  
23 obtained through the program established under RCW 74.04.500 or food  
24 stamp benefits transferred electronically, or food purchased therewith,  
25 is guilty of the following:

26 (1) A gross misdemeanor if the value of the stamps, benefits, or  
27 food transferred exceeds one hundred dollars; or

28 (2) A misdemeanor if the value of the stamps, benefits, or food  
29 transferred is one hundred dollars or less.

30 **Sec. 6.** RCW 9.91.142 and 2003 c 53 s 50 are each amended to read  
31 as follows:

32 A person who purchases, or who otherwise acquires and sells, or who  
33 traffics in, or knowingly initiates, organizes, plans, finances,  
34 directs, manages, or supervises the theft for sales to others of food  
35 stamps as defined by the federal food stamp act, as amended, 7 U.S.C.

1 Sec. 2011 et seq., or food stamp benefits transferred electronically,  
2 is guilty of the following:

3 (1) A class C felony punishable according to chapter 9A.20 RCW if  
4 the face value of the stamps or benefits exceeds one hundred dollars;  
5 or

6 (2) A gross misdemeanor if the face value of the stamps or benefits  
7 is one hundred dollars or less.

8 NEW SECTION. **Sec. 7.** No later than January 1, 2013, the office of  
9 fraud and accountability within the department of social and health  
10 services, along with the state auditor's office and the department of  
11 early learning, shall collaborate in an effort to identify, review, and  
12 provide the legislature with recommendations for integrated monitoring  
13 and detection systems to prevent overpayments of public assistance from  
14 occurring.

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