

Legislative Analysis



LICENSE SANCTIONS FOR FRAUDULENT FOOD ASSISTANCE PROGRAM BENEFIT TRANSACTIONS

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House Bill 4360 (as enrolled)
Public Act 55 of 2013
Sponsor: Rep. Gail Haines

House Bill 4361 (as enrolled)
Public Act 56 of 2013
Sponsor: Rep. Roger Victory

House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Complete to 9-19-13

A SUMMARY OF HOUSE BILLS 4360 & 4361 AS ENACTED

The bills would allow the Liquor Control Commission and the Lottery Commissioner to sanction their respective licensees for large-scale fraudulent transactions for food assistance program benefits related to the sale of lottery tickets or alcoholic liquor. Licensees that are convicted or administratively disqualified would be subject to a 30-day to 60-day license suspension for a first offense, a 61-day to 120 day license suspension for a second offense, and revocation of a license for a third or subsequent offense.

House Bill 4360 would add a new Section 903a to the Liquor Control Code to require the Liquor Control Commission to impose penalties on licensees involved in fraudulent transactions for food assistance program benefits related to sale of alcoholic liquor.

Specifically, a licensee would be subject to penalty if convicted or found to be administratively disqualified as the result of an electronic transaction for food assistance program benefits involving an item other than eligible food and that is related to the sale of alcoholic liquor under the licensee's liquor license. Upon due notice and a proper hearing, the commission would be required to impose a 30-day to 60-day license suspension for a first offense, a 61-day to 120-day license suspension for a second offense, and revocation of a license for a third or subsequent offense. Sanctions imposed under the bill could be appealed as provided for in the act.

Under the bill, "convicted" means that the licensee either was convicted of or pled guilty to a crime under Section 300a(1)(c) of the Michigan Penal Code, which refers to cases where the aggregate value of the benefits is more than \$1,000.

The bill would take effect 90 days after it is enacted into law.

MCL 436.1903a

House Bill 4361 would add a new Section 24 to the State Lottery Act to require the Lottery Commissioner to impose penalties on licensees involved in fraudulent transactions for food assistance program benefits related to the sale of lottery tickets.

Specifically, a licensee would be subject to penalty if convicted or found to be administratively disqualified as the result of an electronic transaction for food assistance program benefits that involves an item other than eligible food and that is related to the sale of a lottery ticket under a lottery sales license. Upon due notice and a proper hearing, the Lottery Commissioner would be required to impose a 30-day to 60-day license suspension for a first offense, a 61-day to 120-day license suspension for a second offense, and revocation of a license for a third or subsequent offense. Sanctions imposed under the bill could be appealed as provided for in the act.

Under the bill, "convicted" means that the licensee either was convicted of or pled guilty to a crime under Section 300a(1)(c) of the Michigan Penal Code, which refers to cases where the aggregate value of the benefits is more than \$1,000.

The bill would take effect 90 days after it is enacted into law.

MCL 432.24

FISCAL IMPACT:

House Bill 4360 would have an indeterminate, yet likely minor, negative fiscal impact on the Liquor Control Commission (LCC) to the extent that the violations under House Bill 4360 occur. Such violations would increase administrative costs pertaining to hearings held to impose the sanctions under House Bill 4360 and hearings of licensees' appeals of the sanctions imposed under House Bill 4360.

House Bill 4361 will have an indeterminate fiscal impact on the Bureau of State Lottery. Any lottery revenue loss under the provisions of the bill is anticipated to be minimal. The Bureau of State Lottery will likely realize increased administrative and oversight costs; however, no estimate is available at this time.

BACKGROUND INFORMATION AND DISCUSSION:

The bills are intended to deter individuals from making fraudulent transactions for food assistance program benefits related to the sale of lottery tickets or alcoholic liquor. Under the bills, individuals convicted or administratively disqualified as a result of large-scale fraudulent transactions would face license suspensions ranging from 30 to 120 days, and in the instance of multiple offenses, have their license revoked. Allowing the Liquor Control Commission and the Lottery Commissioner, respectively, to sanction licenses provides an additional tool to help combat welfare fraud and abuse. Individuals found to be trafficking liquor or lottery tickets would be potentially putting their license in jeopardy.

During committee testimony, concern was expressed regarding what constitutes a violation under the bills. For example, would a licensee face sanctions for the actions of a rogue employee who was making fraudulent transactions without the knowledge of the store owner? However, proponents noted that under the bill, the license sanctions would only apply to licensees convicted of fraudulent transactions totaling more than \$1,000, which is a felony punishable by up to 10 years in prison and/or a \$250,000 maximum fine (MCL750.300a). According to testimony, it is generally believed that to exceed the \$1,000 threshold, the fraudulent transactions would need to be part of an organized operation; the \$1,000 threshold would generally not apply to a single rogue employee acting on his or her own accord.

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