



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 841 and 842 (as reported without amendment)
Sponsor: Senator Rick Jones
Committee: Judiciary

CONTENT

Senate Bill 841 would amend the Michigan Penal Code to do the following:

- Increase some of the maximum prison sentences in the graduated criminal penalties for food assistance fraud violations, and adjust the aggregate value of unauthorized food assistance that may trigger more severe sanctions.
- Allow a court to order the forfeiture of certain nonfood items, money, and other things of value that were obtained in food assistance violations.
- Allow a court to order the forfeiture of real and personal property used to commit or facilitate food assistance violations.
- Require the proceeds from the sale of forfeited property, and any forfeited money, to be distributed to the Department of Human Services, the United States Department of Agriculture, and Federal or State law enforcement agencies.
- Refer to the unauthorized use of an access device for obtaining food assistance, rather than the unauthorized use of food stamps or coupons or access devices, in the food assistance fraud prohibitions.

The Penal Code prohibits a person from knowingly using, transferring, acquiring, altering, purchasing, possessing, presenting for redemption, or transporting food stamps or coupons or access devices, other than as authorized by the Federal Food Stamp Act or any supplemental food program administered by the State under the Federal Child Nutrition Act. Under the bill, those prohibited actions would apply to an access device for obtaining food assistance benefits rather than to food stamps or coupons or access devices.

The Code includes graduated penalties for a violation of the prohibition described above, based on the aggregate value of the food stamps or coupons or access devices, and the offender's prior convictions. Violations over a 12-month period may be charged as one offense and the value of the food assistance may be aggregated for determining the sentence. Violations are punishable as shown in Table 1.

Table 1

Aggregate Amount	Violation Level	Max Penalty
\$250 or less	Misdemeanor	93 days and/or \$1,000
More than \$250 but not exceeding \$1,000 ^{a)}	Felony	5 years and/or \$10,000
More than \$1,000 ^{b)}	Felony	10 years and/or \$250,000
^{a)} or \$250 or less with one prior conviction		
^{b)} or \$250 or less with two or more prior convictions; or more than \$250 but not exceeding \$1,000 with one prior conviction		

Under the bill, the violations would be based on the aggregate value of the food assistance benefits used, transferred, acquired, altered, purchased, possessed, presented for redemption, or transported, and the offender's prior convictions. Violations would be punishable as shown in Table 2.

Table 2

Aggregate Amount	Violation Level	Max Penalty
\$100 or less	Misdemeanor	1 year and/or \$1,000
More than \$100 but less than \$5,000 ^{a)}	Felony	5 years and/or 10,000
\$5,000 or more ^{b)}	Felony	20 years and/or \$250,000
^{a)} or \$100 or less with one prior conviction ^{b)} or \$100 or less with two or more prior convictions; or more than \$100 but less than \$5,000 with one prior conviction		

Senate Bill 842 would amend the Code of Criminal Procedure to revise the sentencing guidelines for food stamp fraud felonies, making them consistent with the penalties proposed by Senate Bill 841.

Senate Bill 842 is tie-barred to Senate Bill 841.

MCL 750.300a (S.B. 841)
777.16o (S.B. 842)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

With the increased penalties for the different levels of food assistance fraud, the bills present a potential fiscal cost to State government for those convicted of the felony-level fraud. Any added imprisonment time would have an average cost of \$35,000 per prisoner per year. For any additional imprisonment imposed for the misdemeanor offense, there would be an additional cost to local jails. In 2011, there were a total of 12 convictions for offenses within the different categories of food assistance fraud.

Senate Bill 841 also provides that any property obtained through food assistance fraud would be eligible for State forfeiture. The bill would require that any proceeds from this forfeiture be used to reimburse (in order of priority): the Michigan Department of Human Services for forfeiture proceedings, the U.S. Department of Agriculture (USDA) for law enforcement costs, any State or Federal law enforcement agency for any costs associated with the forfeiture, and the USDA for losses.

Date Completed: 5-7-14

Fiscal Analyst: John Maxwell

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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.