

SENATE BILL No. 841

March 4, 2014, Introduced by Senators JONES, BOOHER, ROBERTSON, PROOS and SCHUITMAKER and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 300a (MCL 750.300a), as amended by 1993 PA 230.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 300a. (1) A person who knowingly uses, transfers,
2 acquires, alters, purchases, possesses, presents for redemption, or
3 transports ~~food stamps or coupons or~~ **AN** access devices **DEVICE FOR**
4 **OBTAINING FOOD ASSISTANCE BENEFITS**, other than as authorized by the
5 food stamp act of 1977, 7 ~~U.S.C.~~ **USC** 2011 to 2030, **2036A**, and the
6 regulations promulgated under that act, or any supplemental food
7 program administered by any department of this state ~~pursuant to~~
8 **UNDER** section 17 of the child nutrition act of 1966, 42 ~~U.S.C.~~ **USC**

1 1786, and the regulations promulgated under that act, is guilty of
2 a crime as follows:

3 (a) Except as otherwise provided in this subdivision, if the
4 aggregate value of the food ~~stamps or coupons or access devices~~
5 **ASSISTANCE BENEFITS USED, TRANSFERRED, ACQUIRED, ALTERED,**
6 **PURCHASED, POSSESSED, PRESENTED FOR REDEMPTION, OR TRANSPORTED** is
7 ~~\$250.00~~ **\$100.00** or less, the person is guilty of a misdemeanor ~~7~~
8 punishable by imprisonment for not more than ~~93 days,~~ **1 YEAR** or a
9 fine of not more than \$1,000.00, or both. If the person has 1 prior
10 conviction for violating this section, the person is guilty of a
11 felony ~~7~~ and may be punished as provided in subdivision (b). If the
12 person has 2 or more prior convictions for violating this section,
13 the person is guilty of a felony ~~7~~ and may be punished as provided
14 in subdivision (c). The existence of a prior conviction shall be
15 determined by the court at sentencing.

16 (b) Except as otherwise provided in this subdivision, if the
17 aggregate value of the food ~~stamps or coupons or access devices~~
18 **ASSISTANCE BENEFITS USED, TRANSFERRED, ACQUIRED, ALTERED,**
19 **PURCHASED, POSSESSED, PRESENTED FOR REDEMPTION, OR TRANSPORTED** is
20 more than ~~\$250.00 but does not exceed \$1,000.00,~~ **\$100.00 BUT LESS**
21 **THAN \$5,000.00,** the person is guilty of a felony ~~7~~ punishable by
22 imprisonment for not more than 5 years ~~7~~ or a fine of not more than
23 \$10,000.00, or both. If the person has 1 or more prior convictions
24 for violating this section, the person is guilty of a felony ~~7~~ and
25 may be punished as provided in subdivision (c). The existence of a
26 prior conviction shall be determined by the court at sentencing.

27 (c) If the aggregate value of the food ~~stamps or coupons or~~

1 ~~access devices~~ **ASSISTANCE BENEFITS USED, TRANSFERRED, ACQUIRED,**
2 **ALTERED, PURCHASED, POSSESSED, PRESENTED FOR REDEMPTION, OR**
3 **TRANSPORTED** is ~~more than \$1,000.00,~~ **\$5,000.00 OR MORE,** the person
4 is guilty of a felony ~~—~~ punishable by imprisonment for not more
5 than ~~10–20~~ years ~~—~~ or a fine of not more than \$250,000.00, or both.

6 (2) If food ~~stamps or coupons or access devices of various~~
7 ~~values are~~ **ASSISTANCE IS** used, transferred, acquired, altered,
8 purchased, possessed, presented for redemption, or transported in
9 violation of this section over a period of 12 months, the course of
10 conduct may be charged as 1 offense and the values of ~~the food~~
11 ~~stamps or coupons or access devices~~ **THAT ASSISTANCE** aggregated in
12 determining the degree of the offense.

13 (3) A COURT OF PROPER VENUE MAY ORDER THE FORFEITURE AND
14 DENIAL OF PROPERTY RIGHTS OF ANY NONFOOD ITEMS, MONEY, NEGOTIABLE
15 INSTRUMENTS, SECURITIES, OR OTHER THINGS OF VALUE THAT ARE
16 FURNISHED BY ANY PERSON IN EXCHANGE FOR BENEFITS, OR ANYTHING OF
17 VALUE OBTAINED IN VIOLATION OF THIS SECTION. ANY FORFEITURE AND
18 DISPOSAL OF PROPERTY FORFEITED UNDER THIS SUBSECTION SHALL BE
19 CONDUCTED IN ACCORDANCE WITH PROCEDURES AUTHORIZED UNDER THE FOOD
20 STAMP ACT OF 1977, 7 USC 2011 TO 2036A.

21 (4) THE COURT SHALL ORDER, IN ADDITION TO ANY OTHER SENTENCE
22 IMPOSED UNDER THIS SECTION, THAT THE PERSON FORFEIT TO THIS STATE
23 ALL PROPERTY DESCRIBED IN SUBSECTIONS (3) AND (5).

24 (5) ALL REAL AND PERSONAL PROPERTY USED TO COMMIT OR TO
25 FACILITATE THE COMMISSION OF A FELONY VIOLATION OF SUBSECTION
26 (1) (B) OR (C), AND ALL PROCEEDS TRACEABLE TO A VIOLATION OF
27 SUBSECTION (1) (B) OR (C), ARE SUBJECT TO FORFEITURE TO THIS STATE

1 UNDER SUBSECTION (3).

2 (6) NO INTEREST IN PROPERTY SHALL BE FORFEITED UNDER THIS
3 SECTION AS THE RESULT OF ANY ACT OR OMISSION THAT IS PROVEN BY THE
4 OWNER OF THAT INTEREST TO HAVE BEEN COMMITTED OR OMITTED WITHOUT
5 HIS OR HER KNOWLEDGE AND CONSENT.

6 (7) THE PROCEEDS FROM ANY SALE OF FORFEITED PROPERTY AND ANY
7 MONEY FORFEITED UNDER THIS SECTION SHALL BE USED IN THE FOLLOWING
8 ORDER OF PRIORITY:

9 (A) TO REIMBURSE THE DEPARTMENT OF HUMAN SERVICES FOR THE
10 COSTS INCURRED BY THE DEPARTMENT OF HUMAN SERVICES TO INITIATE AND
11 COMPLETE THE FORFEITURE PROCEEDING.

12 (B) TO REIMBURSE THE UNITED STATES DEPARTMENT OF AGRICULTURE
13 FOR ANY COSTS INCURRED IN THE LAW ENFORCEMENT EFFORT RESULTING IN
14 THE FORFEITURE.

15 (C) TO REIMBURSE ANY FEDERAL OR STATE LAW ENFORCEMENT AGENCY
16 FOR ANY COSTS INCURRED IN THE LAW ENFORCEMENT EFFORT RESULTING IN
17 THE FORFEITURE.

18 (D) TO REIMBURSE THE UNITED STATES DEPARTMENT OF AGRICULTURE
19 FOR ANY LOSS INCURRED FROM A VIOLATION OF SUBSECTION (1)(B) OR (C).

20 (8) ~~(3)~~—As used in this section:

21 (a) "Access device" means any card, INCLUDING AN ELECTRONIC
22 BENEFIT TRANSFER CARD ISSUED BY THE DEPARTMENT OF HUMAN SERVICES
23 FOR THE PURPOSE OF DISTRIBUTING GOVERNMENT BENEFITS, AND ANY plate,
24 code, account number, or other means of access that can be used,
25 alone or in conjunction with another access device, to obtain
26 payments, allotments, benefits, money, goods, or other things of
27 value, or that can be used to initiate a transfer of funds pursuant

1 ~~to~~ **UNDER** the food stamp program established under the food stamp
2 act of 1977, 7 U.S.C. **USC** 2011 to 2030, **2036A**, or any supplemental
3 food program administered by any department of this state pursuant
4 ~~to~~ **UNDER** section 17 of the child nutrition act of 1966, 42 U.S.C.
5 **USC** 1786.

6 (b) ~~"Aggregate value of the food stamps or coupons or access~~
7 ~~devices" means the total face value of any food stamps or coupons~~
8 **"AGGREGATE VALUE" MEANS THE TOTAL ASSISTANCE BENEFITS** involved in
9 the violation plus the total value of any access devices involved
10 in the violation. The value of an access device is the total value
11 of the payments, allotments, benefits, money, goods, or other
12 things of value that may be obtained, or the total value of funds
13 that may be transferred, by use of the access device at the time of
14 the violation.

15 ~~—— (c) "Food stamps or coupons" means the coupons issued pursuant~~
16 ~~to the food stamp program established under the food stamp act of~~
17 ~~1977, 7 U.S.C. 2011 to 2030, or issued pursuant to any supplemental~~
18 ~~food program administered by any department of this state pursuant~~
19 ~~to section 17 of the child nutrition act of 1966, 42 U.S.C. 1786.~~