

# HOUSE BILL REPORT

## HB 2709

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**As Reported by House Committee On:**  
Public Safety

**Title:** An act relating to food benefits trafficking.

**Brief Description:** Trafficking food benefits.

**Sponsors:** Representatives Lovick, Dent and Goodman; by request of Department of Social and Health Services.

**Brief History:**

**Committee Activity:**

Public Safety: 1/27/20, 1/30/20 [DP].

**Brief Summary of Bill**

- Modifies state crimes pertaining to the misuse of federal and state food benefits.

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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** Do pass. Signed by 11 members: Representatives Goodman, Chair; Davis, Vice Chair; Appleton, 2nd Vice Chair; Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Graham, Griffey, Lovick, Orwall, Pellicciotti and Pettigrew.

**Staff:** Kelly Leonard (786-7147).

**Background:**

Food Benefits.

The Supplemental Nutrition Assistance Program (SNAP), called "Basic Food" in Washington, provides nutritional support benefits to low-income individuals and families. Congress authorizes funding and establishes requirements for SNAP through the Food and Nutrition Act, and it is administered at the state level by the Department of Social and Health Services (DSHS).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Generally, a person must be at or below 200 percent of the federal poverty level to be eligible for benefits. The SNAP benefits are distributed to any recipient each month via an Electronic Benefits Transfer (EBT) card, which operates like a debit card. The United States Department of Agriculture's Food and Nutritional Service issues permits to qualified stores to accept SNAP benefits and monitors SNAP stores to ensure they follow program rules. An approved store must use EBT equipment for SNAP transactions.

The DSHS also administers a state food assistance program (FAP) that provides benefits to legal immigrants who are not eligible for SNAP, as well as Temporary Assistance for Needy Families (TANF). The DSHS also relies upon the EBT card to deliver TANF cash benefits. Cash benefits can be accessed through most automated teller machines (ATMs), but SNAP and FAP benefits cannot be withdrawn as cash.

SNAP was formerly referred to as the "Food Stamp Program," as it utilized paper denominated stamps or coupons to deliver benefits. Stamps were phased out and replaced with the EBT system.

#### Restrictions on Food Benefits.

Food benefits through EBT cards may be used only for purchasing qualifying items and services. Benefits may not be used for lottery tickets, tobacco, alcohol, supplements, or other restricted items. An EBT card may only be used by the recipient of the benefits, an eligible member of his or her household, or an authorized representative. A recipient may not sell, attempt to sell, exchange, or donate an EBT card or benefits to any other person or entity.

The DSHS Office of Fraud and Accountability (Office) investigates public benefits fraud in Washington. This includes TANF, SNAP, FAP, EBT cards, and child care assistance. The Office coordinates with county prosecutors as well as local, state, and federal law enforcement agencies.

#### State Crimes Pertaining to Misuse of Food Stamps.

It is a crime for any person to sell food stamps or electronic food stamp benefits, or sell food purchased with those benefits. The crime is a gross misdemeanor if the value of the stamps, benefits, or food exceeds \$100, or is a misdemeanor if the value of the stamps, benefits, or food transferred is \$100 or less.

It is a crime for any person to purchase, or otherwise acquire and sell, or traffic in, food stamps or electronic food stamp benefits. The crime is a class C felony and seriousness level I offense if the value of the stamps or benefits exceeds \$100, or a gross misdemeanor if the value of the stamps or benefits is \$100 or less.

It is a crime for any person to obtain and present food stamps or electronic food stamp benefits for redemption, or cause those stamps or benefits to be presented for redemption, if doing so violates the federal law on illegally receiving, transferring, or using stamps or benefits. The crime is a class C felony and seriousness level I offense.

*Sentencing.* Crimes are classified as misdemeanors, gross misdemeanors, or felonies. The classification generally determines the maximum term of confinement (prison or jail) and/or fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

<u>Classification</u>	<u>Maximum Confinement</u>	<u>Maximum Fine</u>
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000
Class A Felony	Life	\$50,000

When a person is convicted of a felony, the Sentencing Reform Act applies and determines a specific range of confinement within the statutory maximum. Ranges are determined by a sentencing grid. The sentencing grid provides a standard range of months for the sentence, based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the offender's criminal history. Seriousness levels range from I to XVI, and offender scores can range from zero to nine or more points. A higher seriousness level or offender score results in a longer sentence.

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**Summary of Bill:**

The crimes pertaining to food stamps and benefits are reorganized into a single section and updated with terminology and references reflective of current food benefit programs in state law. "Food benefits" includes: (a) stamps, coupons, vouchers, cards, and benefits transferred electronically where those items are issued under a food assistance program; and (b) benefits issued as part of federally funded and/or state-funded food assistance programs.

The crime pertaining to acquiring or trafficking in food benefits is modified. It is a crime for any person to knowingly use, transfer, acquire, alter, or possess food benefits in a manner that is contrary to the state law or regulations on food benefits.

The crime pertaining to redeeming food benefits is also modified. It is a crime for any person to present, or cause to be presented, food benefits for payment or redemption, knowing the food benefits have been received, transferred, or used in any manner in violation of state law or regulations on food benefits.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill does not propose any significant changes in law. Instead, it is reorganizing and updating the statutes. It also clarifies the crime pertaining to redeeming illegally obtained food benefits in order to address a recent decision by the Washington Court of Appeals. This bill is necessary in order for the state to address fraud and combat persons who take advantage of and exploit SNAP recipients. More importantly, the state needs to stay in compliance with federal laws and regulations governing SNAP, which includes maintaining functional state laws and anti-fraud programs.

(Opposed) None.

**Persons Testifying:** Representative Lovick, prime sponsor; and Steve Lowe, Office of Fraud and Accountability, Department of Social and Health Services.

**Persons Signed In To Testify But Not Testifying:** None.