ASSEMBLY, No. 4181

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 1, 2020

Sponsored by:
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District 7 (Burlington)
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SYNOPSIS

Requires processing of nutrition assistance program benefits via telephone or at point of delivery for grocery delivery service during public health emergency.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/1/2020)

AN ACT concerning the availability of groceries and other foodstuffs during a public health emergency and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any retail food store which offers a grocery delivery service and is authorized to participate in any federal or State level nutrition assistance program to refuse to conduct a transaction with a consumer, during a public health emergency declared by the Governor pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), due to the consumer's need to utilize an electronic benefit transfer card. If a consumer utilizing a benefit card is unable to access the internet in order to pay for the transaction online, the retail food store shall process the benefit card payment either via telephone or at the point of delivery. A delivery person may refuse to process the benefit card payment at the point of delivery if the delivery person believes that to do so would put the delivery person at risk of contracting a contagious or infectious disease.

b. The provisions of this section shall apply only to retail food stores within the geographic area subject to the declared public health emergency.

c. As used in this section:

"Electronic benefit transfer card or benefit card" means a benefit card utilized by a consumer to gain access to nutrition assistance program benefits.

"Federal WIC program" means the Special Supplemental Nutrition Program for Women, Infants and Children, established pursuant to the federal "Child Nutrition Act of 1966," Pub.L.89-642 (42 U.S.C. s.1771 et seq.).

"Groceries and other foodstuffs" means products eligible for purchase under a nutrition assistance program.

"New Jersey Supplementary Food Stamp Program" means the State level food stamp program, established pursuant to P.L.1998, c.32 (C.44:10-79 et seq.).

"Nutrition assistance program" means the Supplemental Nutrition Assistance Program, the federal WIC program, the New Jersey Supplementary Food Stamp Program, the Work First New Jersey program, or any other federal or State level nutrition or income assistance program.

"Retail food store" means any retail establishment where groceries and other foodstuffs are regularly and customarily sold in a bona fide manner for off-premises consumption.

"Supplemental Nutrition Assistance Program" or "SNAP" means the supplemental nutrition assistance program, established pursuant

to the federal "Food and Nutrition Act of 2008," Pub.L.88-525 (7 U.S.C. s.2011 et seq.).

"Work First New Jersey" means the Work First New Jersey temporary public assistance program, established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.).

2. This act shall take effect immediately.

STATEMENT

This bill makes it an unlawful practice for a retail food store offering a grocery delivery service during a declared public health emergency to refuse to process nutrition assistance program benefits via telephone or at the point of delivery.

In response to the public health emergency resulting from the COVID-19 pandemic, consumers are often required to self-isolate in order to prevent the spread of infection in the community. As a result, consumers may face difficulty obtaining adequate food, particularly when the consumer is attempting to purchase food by utilizing an electronic benefits transfer (EBT) card issued under a State or federal nutrition assistance program. Retail food stores may require that these consumers purchase eligible products in person or offer only online purchase options, even though the consumer may not have access to the internet.

Under the provisions of this bill, it would be an unlawful practice for any retail food store which offers a grocery delivery service and is authorized to participate in any federal or State level nutrition assistance program to refuse to conduct a transaction with a consumer, during a declared public health emergency, due to the consumer's need to utilize an EBT card. If a consumer utilizing an EBT card is unable to access the internet in order to pay for the transaction online, the retail food store is to process the EBT card payment either via telephone or at the point of delivery. However, a delivery person may refuse to process the EBT card payment at the point of delivery if he or she believes that to do so would put him or her at risk of contracting a contagious or infectious disease. The provisions of this bill apply only to retail food stores within the geographic area that is subject to the declared public health emergency.

An unlawful practice under the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), is punishable by a monetary penalty of not more than $10,000 for a first offense and not more than $20,000 for any subsequent offense. In addition, a violation can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages, and the awarding of treble damages and costs to the injured.