

# SENATE, No. 174

---

## STATE OF NEW JERSEY 219th LEGISLATURE

---

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Senator KRISTIN M. CORRADO**

**District 40 (Bergen, Essex, Morris and Passaic)**

**SYNOPSIS**

Increases penalty for improper use of food stamps; requires mandatory imprisonment for public officer or employee who misuses food stamps.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1   **AN ACT** concerning the unauthorized use of food stamps, amending  
2       P.L.1993, c.13 and P.L.2007, c.49.

3

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

6

7       1.   Section 2 of P.L.1993, c.13 (C.2C:20-36) is amended to read  
8   as follows:

9       2.   If the face value of food stamp coupons or an ATP card or  
10   benefit card is equal to or greater than \$500, an individual shall be  
11   guilty of a crime of the second degree and if equal to or greater than  
12   \$150 and less than \$500, an individual shall be guilty of a crime of  
13   the **【fourth】** third degree if **【he】** the individual purposely or  
14   knowingly and without authorization:

15       a.   Receives or uses the proceeds of food stamp coupons or an  
16   ATP card or benefit card for which **【he】** the individual has not  
17   applied or has not been approved by the department to use;

18       b.   Engages in any transaction to convert food stamp coupons or  
19   an ATP card or benefit card to other property contrary to federal  
20   and State government rules and regulations governing the Work  
21   First New Jersey program, the federal food stamp program, the New  
22   Jersey Supplementary Food Stamp Program, or any other program  
23   included in the electronic benefit distribution system; or

24       c.   Transfers food stamp coupons or an ATP card or benefit  
25   card to another person who is not lawfully entitled or approved by  
26   the department to use the coupons or ATP card or benefit card.

27   (cf: P.L.1998, c.32, s.8)

28

29       2.   Section 3 of P.L.1993, c.13 (C.2C:20-37) is amended to read  
30   as follows:

31       3.   If the face value of food stamp coupons or an ATP card or  
32   benefit card is less than \$150, an individual shall be guilty of a  
33   crime of the fourth degree **【disorderly persons offense】** if **【he】** the  
34   individual purposely or knowingly and without authorization:

35       a.   Receives or uses the proceeds of food stamp coupons or an  
36   ATP card or benefit card for which **【he】** the individual has not  
37   applied or has not been approved, by the department, to use;

38       b.   Engages in any transaction to convert food stamp coupons or  
39   an ATP card or benefit card to other property contrary to federal  
40   and State government rules and regulations governing the Work  
41   First New Jersey program, the federal food stamp program, the New  
42   Jersey Supplementary Food Stamp Program, or any other program  
43   included in the electronic benefit distribution system; or

**EXPLANATION** – Matter enclosed in bold-faced brackets **【thus】** in the above bill is  
not enacted and is intended to be omitted in the law.

      Matter underlined thus is new matter.

1 c. Transfers food stamp coupons or an ATP card or benefit  
2 card to another person who is not lawfully entitled or approved, by  
3 the department, to use the coupons or ATP card or benefit card.  
4 (cf: P.L.1998, c.32, s.9)

5  
6 3. Section 6 of P.L.2007, c.49 (C.2C:43-6.5) is amended to  
7 read as follows:

8 6. a. Notwithstanding the provisions of subsection a. of  
9 N.J.S.2C:43-6 and except as otherwise provided in subsection c. of  
10 this section, a person who serves or has served as a public officer or  
11 employee under the government of this State, or any political  
12 subdivision thereof, who is convicted of a crime that involves or  
13 touches such office or employment as set forth in subsection b. of  
14 this section, shall be sentenced to a mandatory minimum term of  
15 imprisonment without eligibility for parole as follows: for a crime  
16 of the fourth degree, the mandatory minimum term shall be one  
17 year; for a crime of the third degree, two years; for a crime of the  
18 second degree, five years; and for a crime of the first degree, 10  
19 years; unless the provisions of any other law provide for a higher  
20 mandatory minimum term. As used in this subsection, "a crime that  
21 involves or touches such office or employment" means that the  
22 crime was related directly to the person's performance in, or  
23 circumstances flowing from, the specific public office or  
24 employment held by the person.

25 b. Subsection a. of this section applies to a conviction of any of  
26 the following crimes:

27 (1) Paragraph (4) of subsection a. of N.J.S.2C:13-5, criminal  
28 coercion;

29 (2) N.J.S.2C:20-4, theft by deception, if the amount involved  
30 exceeds \$10,000;

31 (3) Subsection d. of N.J.S.2C:20-5, theft by extortion;

32 (4) N.J.S.2C:20-9, theft by failure to make required disposition  
33 of property received, if the amount involved exceeds \$10,000;

34 (5) N.J.S.2C:21-10, commercial bribery;

35 (6) Section 3 of P.L.1994, c.121 (C.2C:21-25), money  
36 laundering;

37 (7) Section 97 of P.L.1999, c.440 (C.2C:21-34), false contract  
38 payment claims;

39 (8) N.J.S.2C:27-2, bribery in official matters;

40 (9) N.J.S.2C:27-3, threats and other improper influence in  
41 official and political matters;

42 (10) Section 100 of P.L.1999, c.440 (C.2C:27-9), unlawful  
43 official business transaction where interest is involved;

44 (11) Section 5 of P.L.2003, c.255 (C.2C:27-10), acceptance or  
45 receipt of unlawful benefit by public servant for official behavior;

46 (12) Section 6 of P.L.2003, c.255 (C.2C:27-11), offer of  
47 unlawful benefit to public servant for official behavior;

48 (13) N.J.S.2C:28-1, perjury;

- 1 (14) N.J.S.2C:28-5, tampering with witnesses;  
2 (15) N.J.S.2C:28-7, tampering with public records or  
3 information;  
4 (16) N.J.S.2C:29-4, compounding;  
5 (17) N.J.S.2C:30-2, official misconduct;  
6 (18) N.J.S.2C:30-3, speculating or wagering on official action  
7 or information; **【or】**  
8 (19) Section 3 of P.L.2003, c.31 (C.2C:30-7), pattern of official  
9 misconduct; or  
10 (20) Section 2 of P.L.1993, c.13 (C.2C:20-36) and section 3 of  
11 P.L.1993, c.13 (C.2C:20-37), unauthorized use of food stamp  
12 coupons, ATP card, or benefit card.
- 13 c. (1) On motion by the prosecutor stating that the defendant  
14 has provided substantial assistance in a criminal investigation or  
15 prosecution of another person, the court may waive or reduce the  
16 mandatory minimum term of imprisonment required by subsection  
17 a. of this section. The appropriate waiver or reduction shall be  
18 determined by the court for reasons stated that may include, but are  
19 not limited to, consideration of the following:
- 20 (i) the court's evaluation of the significance and usefulness of  
21 the defendant's assistance, giving substantial weight to the  
22 prosecutor's evaluation of the assistance rendered;  
23 (ii) the truthfulness, completeness, and reliability of any  
24 information or testimony provided by the defendant;  
25 (iii) the nature and extent of the defendant's assistance;  
26 (iv) any injury suffered, or any danger or risk of injury to the  
27 defendant or his family resulting from his assistance;  
28 (v) the timeliness of the defendant's assistance.
- 29 In making such a determination, the court shall give substantial  
30 weight to the prosecutor's evaluation of the extent of the defendant's  
31 assistance, particularly where the extent and value of the assistance  
32 are difficult to ascertain.
- 33 (2) If the court finds by clear and convincing evidence that  
34 extraordinary circumstances exist such that imposition of a  
35 mandatory minimum term would be a serious injustice which  
36 overrides the need to deter such conduct in others, the court may  
37 waive or reduce the mandatory minimum term of imprisonment  
38 required by subsection a. of this section. In making any such  
39 finding, the court must state with specificity its reasons for waiving  
40 or reducing the mandatory minimum sentence that would otherwise  
41 apply.
- 42 (3) If, pursuant to paragraph (1) or (2) of this subsection, the  
43 court waives or reduces the mandatory minimum term required by  
44 subsection a. of this section, such sentence shall not become final  
45 for 10 days in order to permit the appeal of the sentence by the  
46 prosecution.
- 47 d. (1) A prosecutor shall not recommend the admission into  
48 or consent to the referral to a pretrial intervention program of a

1 person who serves or has served as a public officer or employee  
2 under the government of this State, or any political subdivision  
3 thereof, who is charged with a crime that involves or touches such  
4 office or employment as set forth in subsection b. of this section,  
5 without the prior approval of the Attorney General.

6 (2) A person who serves or has served as a public officer or  
7 employee under the government of this State, or any political  
8 subdivision thereof, who is convicted of a crime that involves or  
9 touches such office or employment as set forth in subsection b. of  
10 this section shall be ineligible for participation in any program of  
11 intensive supervision during any period of parole ineligibility.

12 e. The Attorney General shall develop guidelines to ensure the  
13 uniform exercise of discretion in making determinations regarding  
14 the waiver or reduction of a mandatory minimum term of  
15 imprisonment pursuant to paragraph (1) of subsection c. of this  
16 section and participation in a pretrial intervention program pursuant  
17 to paragraph (1) of subsection d. of this section.

18 (cf: P.L.2007, c.49, s.6)

19  
20 4. This act shall take effect immediately.

21  
22  
23 STATEMENT

24  
25 The bill increases the penalty for the crime of unauthorized use  
26 of food stamps. Misuse of food stamps that have a face value of  
27 over \$500 is a crime of the second degree, between \$150 and \$500  
28 is a crime of the third degree, and below \$150 is a crime of the  
29 fourth degree.

30 The bill requires that a public officer or employee of the State  
31 who misuses food stamps be sentenced to a mandatory minimum  
32 term of imprisonment. For a crime of the fourth degree, the  
33 mandatory minimum term is one year; for a crime of the third  
34 degree, two years; and for a crime of the second degree, five years.