

1 **AN ACT** *to repeal* 49.797 (2) (b) and 49.797 (8); and *to amend* 49.79 (title) and (1)
2 (c), 49.79 (2), (3), (4), (5) (a), (6), (7), (8), (8m), and (9), 49.793 (1), 49.795 and
3 49.797 (1) and (2) of the statutes; **relating to:** updating terminology to reflect
4 changes to the federal supplemental nutrition assistance program.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council’s Special Committee on Public Assistance Program Integrity. The draft makes technical changes to reflect terminology and program administration changes made at the federal level to the federal supplemental nutrition assistance program, formerly the food stamp program.

In 2008, a federal act, the Food, Conservation, and Energy Act of 2008 (“the 2008 Farm Bill”), changed the name of the federal “Food Stamp Program” to the “supplemental nutrition assistance program.” [P.L. 110–246.] Among other changes, it also made electronic benefits transfer the sole means by which benefits may be distributed in the program.

Sections 49.79, 49.793, 49.795, and 49.797, stats., provide for the establishment and implementation of the federal program. Provisions throughout those sections contain language and requirements that are out of date in light of changes made by the 2008 Farm Bill. For example, terms such as “food stamps” and “food coupons” are now obsolete.

The draft updates the terminology in relevant sections. Specifically, it replaces the term “food stamp program” with “supplemental nutrition assistance program” throughout ss. 49.79, 49.793, 49.795, and 49.797, stats. It likewise replaces terms such as “food coupons” and “food stamps” with “supplemental nutrition assistance program benefits” in those sections. Finally, it makes changes throughout the sections to reflect the requirement under current law that benefits be distributed electronically.

5 **SECTION 1.** 49.79 (title) and (1) (c) of the statutes are amended to read:

1 **49.79 Food stamp Supplemental nutrition assistance program administration. (1)**

2 ~~DEFINITIONS. In this section:~~

3 (c) ~~“Food stamp program~~ Supplemental nutrition assistance program~~”~~ means the
4 federal food stamp program under 7 USC 2011 to 2036.

5 **SECTION 2.** 49.79 (2), (3), (4), (5) (a), (6), (7), (8), (8m), and (9) of the statutes are
6 amended to read:

7 **(2) DENIAL OF ELIGIBILITY.** An individual who fails to comply with the work
8 requirements of the employment and training program under sub. (9) is ineligible to
9 participate in the ~~food stamp~~ supplemental nutrition assistance program as specified under
10 sub. (9) (b).

11 **(3) LIABILITY FOR LOST FOOD COUPONS** MISAPPROPRIATED BENEFITS. (a) A county or
12 federally recognized American Indian tribe is liable for all ~~food stamp coupons lost,~~
13 supplemental nutrition assistance program benefits misappropriated, ~~or destroyed while~~
14 under the county's or tribe's direct control, ~~except as provided in par. (b).~~

15 ~~(b) A county or federally recognized American Indian tribe is not liable for food stamp~~
16 ~~coupons lost in natural disasters if it provides evidence acceptable to the department that the~~
17 ~~coupons were destroyed and not redeemed.~~

18 (c) A county or federally recognized American Indian tribe is liable for ~~food stamp~~
19 ~~coupons mailed~~ supplemental nutrition assistance program benefits incorrectly transferred to
20 residents of the county or members of the tribe ~~and lost in the mail due to incorrect information~~
21 submitted to the department by the county or tribe.

NOTE: Strikes language no longer applicable under the system of
 electronic benefit transfers.

COMMENT: Does it make sense to retain this subsection? Electronically transferred benefits could arguably be misappropriated but are arguably no longer in local governments' "control" in the manner contemplated.

1 **(4) DEDUCTIONS FROM COUNTY INCOME MAINTENANCE PAYMENTS.** The department shall
2 withhold the value of ~~food-stamp~~ supplemental nutrition assistance program benefits losses
3 for which a county or federally recognized American Indian tribe is liable under sub. (3) from
4 the payment to the county or tribe under income maintenance contracts under s. 49.78 and
5 reimburse the federal government from the funds withheld.

COMMENT: The decision regarding whether to retain sub. (3) will affect whether sub. (4) should be retained.

6 **(5) DRUG CONVICTIONS.** (a) The department shall require an applicant for, or recipient
7 under, the ~~food-stamp~~ supplemental nutrition assistance program to state in writing whether
8 the applicant or recipient or any member of the applicant's or recipient's household has been
9 convicted, in any state or federal court of a felony that has as an element possession, use, or
10 distribution of a controlled substance. The department shall require an applicant or recipient,
11 or member of the applicant's or recipient's household to submit to a test for use of a controlled
12 substance as a condition of continued eligibility if, after August 22, 1996, but not more than
13 5 years prior to the date the written statement is made, the applicant or recipient or the member
14 of the applicant's or recipient's household was convicted in any state or federal court of a
15 felony that had as an element possession, use, or distribution of a controlled substance. If the
16 test results are positive with respect to any individual, the department may not consider the
17 needs of that individual in determining the household's eligibility for the ~~food-stamp~~
18 supplemental nutrition assistance program for at least 12 months from the date of the test. The
19 department shall, however, consider the income and resources of that individual to be
20 available to the household.

1 (6) INELIGIBILITY FOR FUGITIVE FELONS. No person is eligible for the ~~food stamp~~
2 supplemental nutrition assistance program in a month in which that person is a fugitive felon
3 under 7 USC 2015 (k) (1) or is violating a condition of probation, extended supervision, or
4 parole imposed by a state or federal court.

5 (7) SIMPLIFIED FOOD STAMP PROGRAM. The department shall develop a simplified ~~food~~
6 ~~stamp~~ supplemental nutrition assistance program that meets all of the requirements under P.L.
7 104–193, section 854, and shall submit the plan to the secretary of the federal department of
8 agriculture for approval. If the secretary of the federal department of agriculture approves the
9 plan, the department shall submit the plan to the secretary of administration for approval. If
10 the secretary of administration approves the plan, the department may implement the plan.

COMMENT: Under current federal law, the “simplified food stamp
program” has been replaced with a “simplified supplemental nutrition
assistance program.” [42 USC 2035.] The Wisconsin department of
health services (DHS) currently implements such a program. Is ongoing
statutory authority necessary to allow the continued implementation of
the simplified program? If so, should such statutory authority require, or
merely authorize, the department’s implementation of the program?

11 (8) BENEFITS FOR QUALIFIED ALIENS. The department shall provide benefits under this
12 section to a qualified alien who is ineligible for benefits under this section solely because of
13 the application of 9 § USC 1612 or 1613 according to a plan approved by the federal
14 department of agriculture. This subsection does not apply to the extent that federal ~~food stamp~~
15 supplemental nutrition assistance program benefits for qualified aliens are restored by the
16 federal government.

NOTE: Amends the reference to federal statute to reflect the correct U.S.
Code citation.

COMMENT: With enactment of the Farm Security and Rural Investment
Act of 2002 (P.L. 107–171), Congress restored access to food stamp
benefits to specified groups of legal aliens, including persons receiving
disability benefits, persons who had been in the United States

continuously for 5 years, and all children of legal immigrants. The 2008 Farm Bill (P.L. 110-246) extended such provisions. Should the subsection be modified to reflect those changes?

1 **(8m)** APPLICANTS FROM CORRECTIONAL INSTITUTIONS. (a) The department shall allow
2 a prisoner who is applying for the ~~food stamp~~ supplemental nutrition assistance program from
3 a correctional institution in anticipation of being released from the institution to use the
4 address of the correctional institution as his or her address on the application.

5 (b) The department shall allow an employee of a correctional institution who has been
6 authorized by a prisoner of the institution to act on his or her behalf in matters related to the
7 ~~food stamp~~ supplemental nutrition assistance program to receive and conduct telephone calls
8 on behalf of the prisoner in matters related to the ~~food stamp~~ supplemental nutrition assistance
9 program.

10 **(9)** EMPLOYMENT AND TRAINING PROGRAM. (a) 1. The department shall administer an
11 employment and training program for recipients under the ~~food stamp~~ supplemental nutrition
12 assistance program and may contract under s. 49.78 with county departments under ss. 46.215,
13 46.22, and 46.23, and with tribal governing bodies to carry out the administrative functions.
14 The department may contract, or a county department or tribal governing body may
15 subcontract, with a Wisconsin Works agency or another provider to administer the
16 employment and training program under this subsection. Except as provided in subds. 2. and
17 3., the department may require able individuals who are 18 to 60 years of age who are not
18 participants in a Wisconsin Works employment position to participate in the employment and
19 training program under this subsection.

20 2. The department may not require an individual who is a recipient under the ~~food stamp~~
21 supplemental nutrition assistance program and who is the caretaker of a child under the age
22 of 12 weeks to participate in any employment and training program under this subsection.

1 3. The department may not require an individual who is a recipient under the ~~food stamp~~
2 supplemental nutrition assistance program to participate in any employment and training
3 program under this subsection if that individual is enrolled at least half time in a school, as
4 defined in s. 49.26 (1) (a) 2., a training program, or an institution of higher education.

5 4. The amount of ~~food stamp~~ supplemental nutrition assistance program benefits paid
6 to a recipient who is a participant in a Wisconsin works employment position under s. 49.147
7 (4) or (5) shall be calculated based on the pre-sanction benefit amount received s. 49.148.

8 **SECTION 3.** 49.793 (1) of the statutes is amended to read:

9 **49.793 Recovery of ~~food stamps~~ overpayments.** (1) The department or a county or
10 an elected governing body of a federally recognized American Indian tribe or band acting on
11 behalf of the department, may recover overpayments that arise from an overissuance of ~~food~~
12 ~~coupons~~ supplemental nutrition assistance program benefits under the ~~food stamp~~
13 supplemental nutrition assistance program administered under s. 46.215 (1) (k) or 46.22 (1)
14 (b) 2. d. Recovery shall be made in accordance with 7 USC 2022.

15 **SECTION 4.** 49.795 of the statutes is amended to read:

16 **49.795 ~~Food stamp~~ Supplemental nutrition assistance program offenses.** (1) In
17 this section:

18 (a) “Eligible person” means a member of a household certified as eligible for the ~~food~~
19 ~~stamp~~ supplemental nutrition assistance program or a person authorized to represent a
20 certified household under 7 USC 2020 (e) (7).

21 (b) “Food” means items which may be purchased using ~~food coupons~~ supplemental
22 nutrition assistance program benefits under 7 USC 2012 (g) and 2016 (b).

NOTE: Strikes a citation to a federal statute that does not currently relate
to the subject matter.

1 (c) “~~Food stamp~~ Supplemental nutrition assistance program” means the federal ~~food~~
2 ~~stamp~~ supplemental nutrition assistance program under 7 USC 2011 to 2029 2036.

NOTE: Amends the definition to reflect new federal statutes pertaining to the program.

3 (d) “Supplier” means a retail grocery store or other person authorized by the federal
4 department of agriculture to accept ~~food coupons~~ supplemental nutrition assistance program
5 benefits in exchange for food under the ~~food stamp~~ supplemental nutrition assistance program.

6 (e) “Unauthorized person” means a person who is not one of the following:

7 1. An employee or officer of the federal government, the state, a county, or a federally
8 recognized American Indian tribe acting in the course of official duties in connection with the
9 ~~food stamp~~ supplemental nutrition assistance program.

10 2. A person acting in the course of duties under a contract with the federal government,
11 the state, a county or a federally recognized American Indian tribe in connection with the ~~food~~
12 ~~stamp~~ supplemental nutrition assistance program .

13 5. A person authorized to redeem ~~food coupons~~ supplemental nutrition assistance
14 program benefits under 7 USC 2019.

15 (2) No person may misstate or conceal facts in a ~~food stamp~~ supplemental nutrition
16 assistance program application or report of income, assets, or household circumstances with
17 intent to secure or continue to receive ~~food stamp~~ supplemental nutrition assistance program
18 benefits.

19 (3) No person may knowingly issue ~~food coupons~~ supplemental nutrition assistance
20 program benefits to a person who is not an eligible person or knowingly issue ~~food coupons~~
21 such benefits to an eligible person in excess of the amount for which the person’s household
22 is eligible.

1 (4) No eligible person may knowingly transfer ~~food coupons~~ supplemental nutrition
2 assistance program benefits except to purchase food from a supplier or knowingly obtain or
3 use ~~food coupons~~ such benefits for which the person's household is not eligible.

4 (5) No supplier may knowingly obtain ~~food coupons~~ supplemental nutrition assistance
5 program benefits except as payment for food or knowingly obtain ~~food coupons~~ such benefits
6 from a person who is not an eligible person.

7 (6) No unauthorized person may knowingly obtain, possess, transfer, or use ~~food~~
8 ~~coupons~~ supplemental nutrition assistance program benefits .

9 (7) No person may knowingly alter ~~food coupons~~ supplemental nutrition assistance
10 program benefits.

COMMENT: Under current law, all supplemental nutrition assistance
 program benefits are distributed electronically. Can electronic benefits
 be "altered", or is there an analogous action that would apply to
 electronic benefits?

11 (8) (a) For a first offense under this section:

12 1. If the value of the ~~food coupons~~ supplemental nutrition assistance program benefits
13 does not exceed \$100, a person who violates this section may be fined not more than \$1,000
14 or imprisoned not more than one year in the county jail or both.

15 2. If the value of the ~~food coupons~~ supplemental nutrition assistance program benefits
16 exceeds \$100, but is less than \$5,000, a person who violates this section is guilty of a Class
17 I felony.

18 (b) For a 2nd or subsequent offense under this section:

19 1. If the value of the ~~food coupons~~ supplemental nutrition assistance program benefits
20 does not exceed \$100, a person who violates this section may be fined not more than \$1,000
21 or imprisoned not more than one year in the county jail or both.

1 2. If the value of the ~~food coupons~~ supplemental nutrition assistance program benefits
2 exceeds \$100, but is less than \$5,000, a person who violates this section is guilty of a Class
3 H felony.

4 (c) For any offense under this section, if the value of the ~~food coupons~~ supplemental
5 nutrition assistance program benefits is \$5,000 or more, a person who violates this section is
6 guilty of a Class G felony.

7 (d) 1. In addition to the penalties applicable under par. (a), (b), or (c), the court shall
8 suspend a person who violates this section from participation in the ~~food stamp~~ supplemental
9 nutrition assistance program as follows:

10 1m. In addition to the penalties applicable under par. (a), (b) or (c), a court shall
11 permanently suspend from the ~~food stamp~~ supplemental nutrition assistance program a person
12 who has been convicted of an offense under 7 USC 2024 (b) or (c) involving an item covered
13 by 7 USC 2024 (b) or (c) having a value of \$500 or more.

14 (e) 1. If a court finds that a person traded a controlled substance, as defined in s. 961.01
15 (4), for ~~food coupons~~ supplemental nutrition assistance program benefits, the court shall
16 suspend the person from participation in the ~~food stamp~~ supplemental nutrition assistance
17 program as follows:

18 2. If a court finds that a person traded firearms, ammunition, or explosives for ~~food~~
19 ~~coupons~~ supplemental nutrition assistance program benefits, the court shall suspend the
20 person permanently from participation in the ~~food stamp~~ supplemental nutrition assistance
21 program.

22 (f) Notwithstanding par. (d), in addition to the penalties applicable under par. (a), (b),
23 or (c), the court shall suspend from the ~~food stamp~~ supplemental nutrition assistance program
24 for a period of 10 years a person who fraudulently misstates or misrepresents his or her identity

1 or place of residence for the purpose of receiving multiple benefits simultaneously under the
2 ~~food stamp~~ supplemental nutrition assistance program.

COMMENT: Replacement of the phrase “food coupons” with the phrase “supplemental nutrition assistance program benefits” throughout the section may be more cumbersome than necessary. A possible alternative might be to create a definition for the term “benefits” within the section (or for multiple sections) to facilitate use of a shorter phrase. Use of the term “benefits” is used in that manner (without a formal definition) throughout s. 49.797, stats.

3 SECTION 5. 49.797 (1) and (2) of the statutes are amended to read:

4 **49.797 Electronic benefit transfer. (1) DEFINITION.** In this section, “~~food stamp~~
5 supplemental nutrition assistance program” means the federal ~~food stamp~~ supplemental
6 nutrition assistance program under 7 USC 2011 to 2029 2036 or, if the department determines
7 that the ~~food stamp~~ supplemental nutrition assistance program no longer exists, a nutrition
8 program that the department determines is a successor to the ~~food stamp~~ supplemental
9 nutrition assistance program.

NOTE: Amends the reference to federal statute to reflect changes in federal law.

COMMENT: Unlike other definitions for the food stamp program, this definition provides for continued application in the event that a successor program is established. Is that provision particularly necessary in the context of electronic benefit transfer? Is it necessary now that a successor program has been established?

10 (2) DELIVERY OF FOOD STAMPS. (a) ~~Notwithstanding s. 46.028 and except as provided~~
11 ~~in par. (b) and sub. (8), the~~ The department shall administer a statewide program to deliver
12 ~~food stamp~~ supplemental nutrition assistance program benefits to recipients of ~~food stamp~~
13 ~~benefits~~ by an electronic benefit transfer system. All suppliers, as defined in s. 49.795 (1) (d),
14 may participate in the delivery of ~~food stamp~~ supplemental nutrition assistance program
15 benefits under the electronic benefit transfer system. The department shall explore methods

1 by which nontraditional retailers, such as farmers' markets, may participate in the delivery of
2 ~~food stamp~~ supplemental nutrition assistance program benefits under the electronic benefit
3 transfer system.

4 **SECTION 6.** 49.797 (2) (b) of the statutes is repealed.

NOTE: Repeals language providing for an exception to the implementation requirement because implementation of an electronic benefit transfer system is not optional under current law. Also strikes a reference to s. 49.028, Stats., which is not current law.

5 **SECTION 7.** 49.797 (8) of the statutes is repealed.

NOTE: Repeals subsection to reflect change in federal law requiring distribution of benefits by electronic benefit transfer.

6 (END)