

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1127 Session of 2018

INTRODUCED BY AUMENT, SCHWANK, SCAVELLO, KILLION, MARTIN, BARTOLOTTA, MENSCH, VOGEL, FOLMER, BOSCOLA, COSTA, RESCHENTHALER, ARGALL, HUTCHINSON, HUGHES, WAGNER, RAFFERTY, VULAKOVICH, YUDICHAK, REGAN, STEFANO, WARD AND BROWNE, APRIL 11, 2018

AS AMENDED ON THIRD CONSIDERATION, JUNE 5, 2018

AN ACT

~~Amending Titles 18 (Crimes and Offenses) and 62 (Procurement) of the Pennsylvania Consolidated Statutes, in trade and commerce, further providing for fraudulent traffic in food orders; and, in source selection and contract formation, further providing for debarment or suspension.~~

AMENDING TITLES 18 (CRIMES AND OFFENSES) AND 62 (PROCUREMENT) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, IN WIRETAPPING AND ELECTRONIC SURVEILLANCE, FURTHER PROVIDING FOR ORDER AUTHORIZING INTERCEPTION OF WIRE, ELECTRONIC OR ORAL COMMUNICATIONS; IN TRADE AND COMMERCE, FURTHER PROVIDING FOR BUYING OR EXCHANGING FEDERAL FOOD ORDER COUPONS, STAMPS, AUTHORIZATION CARDS OR ACCESS DEVICES AND FOR FRAUDULENT TRAFFIC IN FOOD ORDERS; AND, IN SOURCE SELECTION AND CONTRACT FORMATION, FURTHER PROVIDING FOR DEBARMENT OR SUSPENSION.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

~~Section 1. Section 7314 of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:~~

~~§ 7314. Fraudulent traffic in food orders.~~

~~(a) Offense defined. A person commits the offense of fraudulent traffic in food orders if he, whether acting for himself or for another, directly or indirectly, furnishes or~~

1 ~~delivers to any person money, merchandise, or anything other~~
2 ~~than food, on or in exchange for a food order, or furnishes or~~
3 ~~delivers food on or in exchange for a food order to any person,~~
4 ~~other than the original recipient of the order, or in quantities~~
5 ~~or for prices other than those itemized on the food order at the~~
6 ~~time the food is furnished or delivered.~~

7 ~~(a.1) Grading. [A person who violates this section commits~~
8 ~~a felony of the third degree if the amount involved is \$1,000 or~~
9 ~~more. If the amount involved is less than \$1,000, the person~~
10 ~~commits a misdemeanor of the first degree. Amounts involved in~~
11 ~~fraudulent traffic in food orders committed pursuant to one~~
12 ~~scheme or course of conduct, whether from the same person or~~
13 ~~several persons, shall be aggregated in determining the grade of~~
14 ~~the offense.]~~

15 ~~(1) A person who violates this section commits:~~

16 ~~(i) A felony of the second degree if the amount~~
17 ~~involved is \$2,500 or more.~~

18 ~~(ii) A felony of the third degree if the amount~~
19 ~~involved is \$1,000 or more but less than \$2,500.~~

20 ~~(iii) A misdemeanor of the first degree if the~~
21 ~~amount involved is less than \$1,000.~~

22 ~~(2) Amounts involved in fraudulent traffic in food~~
23 ~~orders committed pursuant to one scheme or course of conduct,~~
24 ~~whether from the same person or several persons, shall be~~
25 ~~aggregated in determining the grade of the offense.~~

26 ~~(b) Additional penalty. In addition to the penalties~~
27 ~~otherwise prescribed and any restitution ordered, the defendant~~
28 ~~shall also be ordered to pay to the agency which shall have~~
29 ~~issued such food order, not less than two times but not more~~
30 ~~than three times the [face amount thereof] amount of restitution~~

1 ~~ordered.~~

2 ~~(b.1) Referral. If the defendant is commercially licensed~~
3 ~~by the Commonwealth or one of its political subdivisions, the~~
4 ~~Office of Inspector General may refer a violation of this~~
5 ~~section to the licensing entity for action by the licensing~~
6 ~~entity as provided under law.~~

7 ~~(c) Exception. Subsection (a) of this section shall not~~
8 ~~apply to the negotiation of a food order after food to the full~~
9 ~~amount of the order shall have been furnished thereon to the~~
10 ~~original recipient of the order.~~

11 ~~(d) Definition. As used in this section, the term "food~~
12 ~~order" means any order issued by or under the authority of any~~
13 ~~public relief or assistance agency, authorizing the furnishing~~
14 ~~and delivery of food to any person therein named or described.~~

15 ~~Section 2. Section 531(b) of Title 62 is amended by adding a~~
16 ~~paragraph to read:~~

17 ~~§ 531. Debarment or suspension.~~

18 ~~* * *~~

19 ~~(b) Causes for debarment or suspension. The causes for~~
20 ~~debarment or suspension include:~~

21 ~~* * *~~

22 ~~(7.1) Violation of 18 Pa.C.S. § 7314 (relating to~~
23 ~~fraudulent traffic in food orders).~~

24 ~~* * *~~

25 ~~Section 3. This act shall take effect in 60 days.~~

26 SECTION 1. SECTIONS 5708(2), 7313 AND 7314 OF TITLE 18 OF <--
27 THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:

28 § 5708. ORDER AUTHORIZING INTERCEPTION OF WIRE, ELECTRONIC OR
29 ORAL COMMUNICATIONS.

30 THE ATTORNEY GENERAL, OR, DURING THE ABSENCE OR INCAPACITY OF

1 THE ATTORNEY GENERAL, A DEPUTY ATTORNEY GENERAL DESIGNATED IN
2 WRITING BY THE ATTORNEY GENERAL, OR THE DISTRICT ATTORNEY OR,
3 DURING THE ABSENCE OR INCAPACITY OF THE DISTRICT ATTORNEY, AN
4 ASSISTANT DISTRICT ATTORNEY DESIGNATED IN WRITING BY THE
5 DISTRICT ATTORNEY OF THE COUNTY WHEREIN THE SUSPECTED CRIMINAL
6 ACTIVITY HAS BEEN, IS OR IS ABOUT TO OCCUR, MAY MAKE WRITTEN
7 APPLICATION TO ANY SUPERIOR COURT JUDGE FOR AN ORDER AUTHORIZING
8 THE INTERCEPTION OF A WIRE, ELECTRONIC OR ORAL COMMUNICATION BY
9 THE INVESTIGATIVE OR LAW ENFORCEMENT OFFICERS OR AGENCY HAVING
10 RESPONSIBILITY FOR AN INVESTIGATION INVOLVING SUSPECTED CRIMINAL
11 ACTIVITIES WHEN SUCH INTERCEPTION MAY PROVIDE EVIDENCE OF THE
12 COMMISSION OF ANY OF THE FOLLOWING OFFENSES, OR MAY PROVIDE
13 EVIDENCE AIDING IN THE APPREHENSION OF THE PERPETRATOR OR
14 PERPETRATORS OF ANY OF THE FOLLOWING OFFENSES:

15 * * *

16 (2) UNDER THIS TITLE, WHERE SUCH OFFENSE IS DANGEROUS TO
17 LIFE, LIMB OR PROPERTY AND PUNISHABLE BY IMPRISONMENT FOR
18 MORE THAN ONE YEAR:

19 SECTION 910 (RELATING TO MANUFACTURE, DISTRIBUTION OR
20 POSSESSION OF DEVICES FOR THEFT OF TELECOMMUNICATIONS
21 SERVICES)

22 SECTION 2709(A) (4), (5), (6) OR (7) (RELATING TO
23 HARASSMENT)

24 SECTION 3925 (RELATING TO RECEIVING STOLEN PROPERTY)

25 SECTION 3926 (RELATING TO THEFT OF SERVICES)

26 SECTION 3927 (RELATING TO THEFT BY FAILURE TO MAKE
27 REQUIRED DISPOSITION OF FUNDS RECEIVED)

28 SECTION 3933 (RELATING TO UNLAWFUL USE OF COMPUTER)

29 SECTION 4108 (RELATING TO COMMERCIAL BRIBERY AND
30 BREACH OF DUTY TO ACT DISINTERESTEDLY)

1 SECTION 4109 (RELATING TO RIGGING PUBLICLY EXHIBITED
2 CONTEST)

3 SECTION 4117 (RELATING TO INSURANCE FRAUD)

4 SECTION 4305 (RELATING TO DEALING IN INFANT CHILDREN)

5 SECTION 4902 (RELATING TO PERJURY)

6 SECTION 4909 (RELATING TO WITNESS OR INFORMANT TAKING
7 BRIBE)

8 SECTION 4911 (RELATING TO TAMPERING WITH PUBLIC
9 RECORDS OR INFORMATION)

10 SECTION 4952 (RELATING TO INTIMIDATION OF WITNESSES
11 OR VICTIMS)

12 SECTION 4953 (RELATING TO RETALIATION AGAINST WITNESS
13 OR VICTIM)

14 SECTION 5101 (RELATING TO OBSTRUCTING ADMINISTRATION
15 OF LAW OR OTHER GOVERNMENTAL FUNCTION)

16 SECTION 5111 (RELATING TO DEALING IN PROCEEDS OF
17 UNLAWFUL ACTIVITIES)

18 SECTION 5121 (RELATING TO ESCAPE)

19 SECTION 5902 (RELATING TO PROSTITUTION AND RELATED
20 OFFENSES)

21 SECTION 5903 (RELATING TO OBSCENE AND OTHER SEXUAL
22 MATERIALS AND PERFORMANCES)

23 SECTION 7313 (RELATING TO BUYING OR EXCHANGING
24 FEDERAL [FOOD ORDER] SUPPLEMENTAL NUTRITION ASSISTANCE
25 PROGRAM (SNAP) BENEFIT COUPONS, STAMPS, AUTHORIZATION
26 CARDS OR ACCESS DEVICES)

27 * * *

28 § 7313. BUYING OR EXCHANGING FEDERAL [FOOD ORDER] SUPPLEMENTAL
29 NUTRITION ASSISTANCE PROGRAM (SNAP) BENEFIT COUPONS,
30 STAMPS, AUTHORIZATION CARDS OR ACCESS DEVICES.

1 (A) OFFENSE DEFINED.--A PERSON COMMITS THE OFFENSE OF BUYING
2 OR EXCHANGING FEDERAL [FOOD ORDER] SNAP BENEFIT COUPONS, STAMPS,
3 AUTHORIZATION CARDS OR ACCESS DEVICES IF HE, NOT BEING
4 AUTHORIZED TO DO SO BY THE UNITED STATES DEPARTMENT OF
5 AGRICULTURE, BUYS OR EXCHANGES FEDERAL [FOOD ORDER] SNAP BENEFIT
6 COUPONS, STAMPS, AUTHORIZATION CARDS OR ACCESS DEVICES FOR
7 CURRENCY, OR IF HE ACCEPTS OR CAUSES TO BE ACCEPTED FEDERAL
8 [FOOD ORDER] SNAP BENEFIT COUPONS, STAMPS, AUTHORIZATION CARDS
9 OR ACCESS DEVICES IN EXCHANGE FOR ANY MERCHANDISE OR ARTICLE
10 EXCEPT FOOD, AS DEFINED BY THE UNITED STATES DEPARTMENT OF
11 AGRICULTURE, OR FEDERAL [FOOD ORDER] SNAP BENEFIT COUPONS,
12 STAMPS, AUTHORIZATION CARDS OR ACCESS DEVICES IN EXCHANGE FOR
13 MERCHANDISE OR ARTICLES, NOT DEFINED BY THE UNITED STATES
14 DEPARTMENT OF AGRICULTURE TO BE SURPLUS FOODS.

15 (B) GRADING.--A PERSON WHO VIOLATES THIS SECTION COMMITS A
16 FELONY OF THE THIRD DEGREE IF THE AMOUNT INVOLVED IS \$1,000 OR
17 MORE. IF THE AMOUNT INVOLVED IS LESS THAN \$1,000, THE PERSON
18 COMMITS A MISDEMEANOR OF THE FIRST DEGREE. AMOUNTS INVOLVED IN
19 BUYING OR EXCHANGING FEDERAL [FOOD ORDER] SNAP BENEFIT COUPONS,
20 STAMPS, AUTHORIZATION CARDS OR ACCESS DEVICES COMMITTED PURSUANT
21 TO ONE SCHEME OR COURSE OF CONDUCT, WHETHER FROM THE SAME PERSON
22 OR SEVERAL PERSONS, SHALL BE AGGREGATED IN DETERMINING THE GRADE
23 OF THE OFFENSE.

24 (C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
25 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
26 SUBSECTION:

27 "ACCESS DEVICE." THE PENNSYLVANIA ACCESS CARD OR ELECTRONIC
28 BENEFIT TRANSFER CARD.

29 "AUTHORIZATION CARD." THE PAPER AUTHORIZATION TO PARTICIPATE
30 THAT A PERSON SIGNS AND THEN EXCHANGES FOR THE DESIGNATED AMOUNT

1 OF FOOD COUPONS AT A BANK.

2 "SNAP BENEFIT." THE VALUE OF SUPPLEMENTAL NUTRITION
3 ASSISTANCE PROVIDED TO A HOUSEHOLD FOR THE PURCHASE OF ELIGIBLE
4 FOODS AS DEFINED IN 7 CFR 271.2 (RELATING TO DEFINITIONS).
5 § 7314. FRAUDULENT TRAFFIC IN [FOOD ORDERS] SUPPLEMENTAL
6 NUTRITION ASSISTANCE PROGRAM (SNAP) BENEFITS.

7 (A) OFFENSE DEFINED.--A PERSON COMMITS THE OFFENSE OF
8 FRAUDULENT TRAFFIC IN [FOOD ORDERS] SNAP BENEFITS IF HE, WHETHER
9 ACTING FOR HIMSELF OR FOR ANOTHER, DIRECTLY OR INDIRECTLY,
10 FURNISHES OR DELIVERS TO ANY PERSON MONEY, MERCHANDISE, OR
11 ANYTHING OTHER THAN FOOD, ON OR IN EXCHANGE FOR A [FOOD ORDER]
12 SNAP BENEFIT, OR FURNISHES OR DELIVERS FOOD ON OR IN EXCHANGE
13 FOR A [FOOD ORDER] SNAP BENEFIT TO ANY PERSON, OTHER THAN THE
14 ORIGINAL RECIPIENT OF THE [ORDER] SNAP BENEFIT, OR IN QUANTITIES
15 OR FOR PRICES OTHER THAN THOSE ITEMIZED ON THE [FOOD ORDER] SNAP
16 BENEFIT AT THE TIME THE FOOD IS FURNISHED OR DELIVERED.

17 (A.1) GRADING.--[A PERSON WHO VIOLATES THIS SECTION COMMITS
18 A FELONY OF THE THIRD DEGREE IF THE AMOUNT INVOLVED IS \$1,000 OR
19 MORE. IF THE AMOUNT INVOLVED IS LESS THAN \$1,000, THE PERSON
20 COMMITS A MISDEMEANOR OF THE FIRST DEGREE. AMOUNTS INVOLVED IN
21 FRAUDULENT TRAFFIC IN FOOD ORDERS COMMITTED PURSUANT TO ONE
22 SCHEME OR COURSE OF CONDUCT, WHETHER FROM THE SAME PERSON OR
23 SEVERAL PERSONS, SHALL BE AGGREGATED IN DETERMINING THE GRADE OF
24 THE OFFENSE.]

25 (1) A PERSON WHO VIOLATES THIS SECTION COMMITS:

26 (I) A FELONY OF THE SECOND DEGREE IF THE AMOUNT
27 INVOLVED IS \$2,500 OR MORE.

28 (II) A FELONY OF THE THIRD DEGREE IF THE AMOUNT
29 INVOLVED IS \$1,000 OR MORE, BUT LESS THAN \$2,500.

30 (III) A MISDEMEANOR OF THE FIRST DEGREE IF THE

1 AMOUNT INVOLVED IS LESS THAN \$1,000.

2 (2) AMOUNTS INVOLVED IN FRAUDULENT TRAFFIC IN SNAP
3 BENEFITS COMMITTED PURSUANT TO ONE SCHEME OR COURSE OF
4 CONDUCT, WHETHER FROM THE SAME PERSON OR SEVERAL PERSONS,
5 SHALL BE AGGREGATED IN DETERMINING THE GRADE OF THE OFFENSE.

6 (B) ADDITIONAL PENALTY.--IN ADDITION TO THE PENALTIES
7 OTHERWISE PRESCRIBED AND ANY RESTITUTION ORDERED, THE DEFENDANT
8 SHALL ALSO BE ORDERED TO PAY TO THE AGENCY WHICH SHALL HAVE
9 ISSUED SUCH [FOOD ORDER,] SNAP BENEFIT, NOT LESS THAN TWO TIMES,
10 BUT NOT MORE THAN THREE TIMES THE [FACE AMOUNT THEREOF.] AMOUNT
11 OF RESTITUTION ORDERED.

12 (B.1) REFERRAL.--IF THE DEFENDANT IS COMMERCIALY LICENSED
13 BY THE COMMONWEALTH OR ONE OF ITS POLITICAL SUBDIVISIONS, THE
14 OFFICE OF STATE INSPECTOR GENERAL MAY REFER A VIOLATION OF THIS
15 SECTION TO THE LICENSING ENTITY FOR ACTION BY THE LICENSING
16 ENTITY AS PROVIDED UNDER LAW.

17 (C) EXCEPTION.--SUBSECTION (A) OF THIS SECTION SHALL NOT
18 APPLY TO THE NEGOTIATION OF A [FOOD ORDER] SNAP BENEFIT AFTER
19 FOOD TO THE FULL AMOUNT OF THE [ORDER] SNAP BENEFIT SHALL HAVE
20 BEEN FURNISHED THEREON TO THE ORIGINAL RECIPIENT OF THE [ORDER]
21 SNAP BENEFIT.

22 (D) DEFINITION.--AS USED IN THIS SECTION, THE TERM ["FOOD
23 ORDER"] "SNAP BENEFIT" MEANS [ANY ORDER ISSUED BY OR UNDER THE
24 AUTHORITY OF ANY PUBLIC RELIEF OR ASSISTANCE AGENCY, AUTHORIZING
25 THE FURNISHING AND DELIVERY OF FOOD TO ANY PERSON THEREIN NAMED
26 OR DESCRIBED.] THE VALUE OF SUPPLEMENTAL NUTRITION ASSISTANCE
27 PROVIDED TO A HOUSEHOLD FOR THE PURCHASE OF ELIGIBLE FOOD AS
28 DEFINED IN 7 CFR 271.2 (RELATING TO DEFINITIONS).

29 SECTION 2. SECTION 531(B) OF TITLE 62 IS AMENDED BY ADDING A
30 PARAGRAPH TO READ:

1 § 531. DEBARMENT OR SUSPENSION.

2 * * *

3 (B) CAUSES FOR DEBARMENT OR SUSPENSION.--THE CAUSES FOR
4 DEBARMENT OR SUSPENSION INCLUDE:

5 * * *

6 (7.1) VIOLATION OF 18 PA.C.S. § 7314 (RELATING TO
7 FRAUDULENT TRAFFIC IN SUPPLEMENTAL NUTRITION ASSISTANCE
8 PROGRAM (SNAP) BENEFITS).

9 * * *

10 SECTION 3. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.