

# Department of Finance and Administration

## Legislative Impact Statement

Bill: HB1743

As Engrossed: 3/20/2019

Bill Subtitle: TO PROMOTE THE PURCHASE OF HEALTHY PRODUCTS WITH SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS.

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### Basic Change :

**Sponsors: Representatives Bentley, Beck, Christiansen, Cloud, Gates, L. Johnson, J. Mayberry, Penzo, B. Smith, Womack and Senator Flippo**

**Engrossed 03/20/19 --- House Amendment 1** --- Amends the bill to remove "dietary supplements" from the types of products that would be excluded from the use of SNAP program benefits if approved by the United States Secretary of Agriculture. The prohibited types of products that would be excluded if approved include candy, soft drinks, and energy drinks.

The amendment also provides that the Department of Human Services would implement the waiver by the United States Secretary of Agriculture no earlier than one (1) year following approval. During the one-year period, DHS would engage in outreach and educational activities to inform Supplemental Nutrition Assistance Program beneficiaries, retailers, and the public about the legislative findings, intent, and programmatic changes under this act.

**Original Bill** ---The proposal would direct the Arkansas Department of Human Services to request a waiver from the United States Secretary of Agriculture to limit the use of the Supplemental Nutrition Assistance Program (SNAP) benefits in Arkansas to the purchase of food products as defined in Arkansas law. The Supplemental Nutrition Assistance Program (SNAP), formerly known as the "Food Stamp Program", assists eligible low-income individuals with the purchase of food.

The bill amends Arkansas Code provisions related to public assistance to add an additional section that defines "food products" that would be applicable to the SNAP program. "Food products" are defined as substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food products" would also include prepared foods. The bill's definition of "food products" specifically excludes candy, soft drinks, energy drinks, or dietary supplements.

If the waiver is granted by the United States Secretary of Agriculture, the Department of Human Services would prohibit the use of benefits under the Supplemental Nutrition Assistance Program (SNAP) for items that are not food products as defined in Arkansas law.

The Act would be effective 90 days after final adjournment of the 92<sup>nd</sup> General Assembly.

### Revenue Impact :

#### **+\$3.5 Million Annual Gain in State Sales Tax Revenue**

. .	\$2.35 million	--- State General Revenue (4.5%)
. .	\$.46 million	--- Educational Adequacy (.875% tax)
. .	\$.26 million	--- Property Tax Relief Trust Fund (.5%)
. .	\$.07 million	--- Conservation Tax (.125%)
. .	\$.26 million	--- Highway Fund (.5%)
. .	\$.07 million	--- State Central Services
. .	\$.03 million	--- Constitutional Officers

City and County Annual Sales Tax Gain --- \$1.2 Million

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[ Retailers generally may not charge sales taxes at the point-of-sale on food purchased with SNAP benefits. The revenue impact assumes continuing purchases of the products regardless of using SNAP benefits to make the purchase and gain in State Revenues would only occur if the United States Secretary of Agriculture approves a waiver from SNAP program benefits that allow purchases of candy, soft drinks, and energy drinks. Revenue impact based on Report of USDA, Foods Typically Purchased by Supplemental Nutrition Assistance Program (SNAP) Households; 2018 Statistical Report, Arkansas Department of Human Services. ]

### **Taxpayer Impact :**

Consumers using SNAP benefits to purchase food could no longer purchase candy, soft drinks, and energy drinks with their SNAP benefits if a waiver is granted by the United States Secretary of Agriculture.

### **Resources Required :**

None.

### **Time Required :**

Adequate time is provided for implementation

### **Procedural Changes :**

None.

### **Other Comments :**

None.

### **Legal Analysis :**

HB1743 adds an additional section to Title 20, Chapter 76, Subchapter 2 which requires the Supplemental Nutrition Assistance Program (SNAP) (formerly known as the "Food Stamp Program") to allow benefits to only be used for food products. This bill requires the Department of Human Services (DHS) to prohibit the use of SNAP benefits for items that are not food products. This bill defines "food products" to mean substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food products" includes prepared foods, but does not include candy, soft drinks, or energy drinks.

This bill does not define the terms, "prepared foods," or "energy drinks," nor does it refer to any other part of the Arkansas Code for their definitions. "Prepared foods" is defined in the Arkansas Gross Receipts Act of 1941, § 26-52-101 *et seq.*, (Gross Receipts Act), but that definition is not used, nor referred to, by this bill. "Energy drinks" do not appear to be defined by the Arkansas Code.

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This bill requires DHS to consult with the Department of Finance and Administration (DFA) to follow guidelines established under the Gross Receipts Act concerning soft drinks and candy that are not food products. While the language from the preceding sentence is not entirely clear regarding its operative intent as to soft drinks and candy that are not food products, it appears that the intent of the General Assembly is for DHS, in consultation with DFA, to use the definitions from the Gross Receipts Act as guidelines to determine which items are soft drinks and candy and therefore not food products.

The following definitions in pertinent part from the Gross Receipts Act, § 26-52-103, are:

- "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces.
- "Candy" shall not include a preparation containing flour and shall require no refrigeration.
- "Soft drink" means a nonalcoholic beverage that contains natural or artificial sweeteners.
- "Soft drink" does not include a beverage that contains milk or milk products, soy, rice, or similar milk substitutes, or that is greater than fifty percent (50%) of vegetable or fruit juice by volume.

This bill requires DHS to request a demonstration waiver from the United States Secretary of Agriculture (Secretary) to allow the implementation of this bill. It is unclear whether the Secretary would grant the waiver to allow the implementation of this bill.