



## MEMORANDUM

*February 12, 2018*

TO: Members, Senate Committee on Public Benefits, Licensing and State-Fed Relations

FROM: Brandon Scholz & Michelle Kussow

RE: Senate Bill 624 Re: Photo ID cards for FoodShare Recipients

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The Wisconsin Grocers Association would like to commend the authors of Senate Bill 624 in their attempts to reduce FoodShare fraud by requiring photo identification on EBT cards. However, we wish to highlight several areas of concern with the legislation that would not result in addressing FoodShare fraud, and would only place additional requirements on Wisconsin retailers.

As a federally regulated program, FoodShare is administered by states on behalf of the federal government, which also grants state-requested changes to the program through approved waivers. In order to accept EBT for FoodShare purchases, retailers must meet all federal requirements and be authorized by the USDA. If Wisconsin received a waiver and implemented photo ID requirements, there are two specific federal regulations that would result in increased regulations on retailers and would negate the impetus:

### **Equal Treatment and Showing ID with SNAP Cards**

The Code of Federal Regulations at 7 C.F.R. 278.2(b) states that “No retail store may single out [EBT SNAP card] users for special treatment in any way.” This means that SNAP recipients must be treated the same as any other customer in transactions.

In 2014, Maine implemented a photo ID requirement, and in response USDA wrote, “Retailers (must) understand that if photos are checked on EBT cards, they must also check cards of credit and debit customers in order to avoid unequal treatment violations.”

Credit card users are not required by MasterCard and Visa to show ID when a properly signed card is presented. In fact, VISA’s merchant contract states “Although Visa rules do not preclude merchants from asking for cardholder ID except in the specific circumstances discussed in this guide, merchants cannot make an ID a condition of acceptance. Therefore, merchants cannot as part of their regular card acceptance procedures refuse to complete a purchase transaction because a cardholder refuses to provide ID.”

As referenced above, this could be in direct violation of state law and also with agreements between merchants and banks, with respect to credit card rules.

### **Ensuring Recipient is Pictured on Card**

A SNAP card can be issued to an individual, or to an entire family for use. A SNAP card may also be used by another; for example, an approved caregiver for an elderly person; authorized representatives for those in medical treatment facilities or for those recipients in group living arrangements.

In response to ensuring benefits are used by SNAP recipients as depicted in photo ID, USDA wrote that “Household members and authorized representatives who are not pictured on the card can continue to access SNAP benefits.” Therefore, regardless of whether the individual presenting the card is pictured on the card, the cashier cannot deny the transaction.

### **Responsibility of Cashiers**

The purpose of requiring photo identification on FoodShare cards is to ultimately prevent individuals from using cards not issued to them and in which they are not pictured, however, the enforcement would be the responsibility of the cashier.

In addition to the additional training that would be required, expecting a cashier to deny an individual the ability to purchase food using an EBT card could subject young and inexperienced cashiers to potentially volatile situations. In addition, as with other identifications requirements, we are concerned that cashiers and/or retailers could be subject to fines and penalties.

Finally, USDA FNS authorizes SNAP retailers for participation in the SNAP program. States cannot compel retailers to check photo ID's as it is outside of their scope of authority.

We are asking for the committee to take into consideration the concerns of retailers that are on the front lines of delivering these benefits. In addition, we believe it is helpful to review past experiences from states that have either implemented similar requirements and subsequently repealed the photo ID provision as well as states that have completed feasibility studies on requiring photo ID and determined that the cost and practical implications of implementing the measure does not reduce fraud and defeats the purpose.