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A Retailer's Guide to the Supplemental Nutrition Assistance Program

Top Ten Ways to Avoid Penalties Under the Supplemental Nutrition Assistance Program



The Supplemental Nutrition Assistance Program (SNAP), formerly known as the Food Stamp Program, serves nearly 40 million Americans.

Recently, retailers around the nation have experienced the effects of higher program participation, and Virginia is no exception. Cities and counties across the Commonwealth have realized remarkable increases in the number residents receiving SNAP benefits.

Along with this substantial increase in individual participation comes increased risk for retailers accepting SNAP benefits. With more SNAP transactions occurring every day, retailers must conduct business with an increased awareness of the regulations governing this valuable program.

Here are the top ten ways retailers can protect themselves:

- 1. Don't engage in trafficking.** Trafficking is the buying or selling of SNAP benefits for anything other than eligible food. Retailers may face permanent disqualification from the program, may be subject to civil or criminal liability, and may be investigated by other governmental agencies.
- 2. Develop and implement an effective compliance policy and personnel Training program.** This is a useful preventative measure retailers can take to avoid SNAP violations.
- 3. Don't accept SNAP benefits for payment of items sold on credit.** SNAP regulations prohibit retailers from accepting SNAP benefits for items sold on credit. The penalty for establishing such credit arrangements with SNAP customers is disqualification from the program for one year.
- 4. Separate eligible and ineligible food.** Under SNAP regulations, retailers may only accept SNAP benefits in exchange for eligible food items. Eligible food is defined broadly as any food intended for human consumption, with the exception of alcoholic beverages, tobacco and hot food prepared for immediate consumption. Penalties for accepting SNAP benefits in exchange for ineligible food items range from a warning letter to permanent disqualification and a claim. However, penalties for accepting SNAP benefits in exchange for cigarettes, tobacco, alcohol or expensive non-food items may result in a three- to five-year disqualification and a possible claim.
- 5. Comply with eligibility determination factors.** SNAP regulations establish that staple foods are those items intended for home preparation and consumption in the following categories: meat, poultry or fish;

Supplemental Nutrition Assistance Program

An effective compliance policy and training program in effect at the time of a violation is required when requesting a civil monetary penalty in lieu of permanent disqualification.



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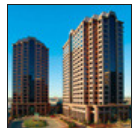
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bread or cereals; vegetables or fruits; and dairy products. Retailers must either offer for sale, on a continuous basis, a variety of qualifying foods, including perishable foods in at least two of the four staple food categories, or have more than 50 percent of the total gross retail sales of the store in staple foods. The U.S. Department of Agriculture may withdraw a retailer's authorization for failure to comply.

6. **Do not redeem SNAP Benefits in excess of food sales.** A retailer whose SNAP benefit redemptions exceed its food sales for a given period of time may be disqualified from the program for three to five years.
7. **Submit only truthful information to the USDA.** The maximum penalty under SNAP regulations for knowingly submitting false information to the USDA is permanent disqualification. In addition, failing to provide truthful information may constitute lying to the United States government, the penalty for which may be a fine and imprisonment.
8. **Treat SNAP customers the same as other customers.** Retailers must accept SNAP benefits for eligible foods at the same prices, terms and conditions applicable to cash purchases of the same food at the same store. However, eligible food purchased with SNAP benefits is tax exempt. Retailers may not single out coupon users for special treatment in any way. The USDA may withdraw a retailer's authorization for failure to comply.
9. **Don't accept SNAP benefits from unauthorized individuals.** Retailers may not knowingly accept SNAP benefits from individuals who have no right to their possession. If a retailer is suspicious, the retailer should request identification. Retailers who knowingly accept SNAP benefits from unauthorized users are subject to program disqualification.
10. **Don't accept SNAP benefits unless authorized by the USDA.** Retailers may not accept SNAP benefits if not authorized, nor may retailers accept SNAP benefits after the effective date of a retailer's disqualification.

If found in violation, retailers may be fined \$1,000 for each violation plus an amount equal to three times the face value of the illegally accepted SNAP benefits

Following these straightforward rules can help retailers avoid harsh penalties for violations and ensure continued participation in the program.

Safeguarding Your Livelihood: Developing an Effective Compliance Policy and Personnel Training Program

SNAP regulations establish rigorous penalties for program violations. However, implementing proper safeguards may shield retailers from one of the most severe penalties: permanent disqualification for trafficking.



Under certain circumstances, a retailer charged with trafficking may be eligible for a civil monetary penalty (CMP) instead of permanent disqualification from the program. A CMP is calculated based on several factors, including the retailer's average monthly redemptions for the twelve months preceding the violation, the retailer's number of prior trafficking offenses, and the face value of the retailer's largest single trafficking transaction. Currently, a CMP is capped at \$32,000 for individual violations and \$59,000 for all violations occurring during a single investigation.

A retailer's first impression may be that a CMP seems excessive. However, compared to the value of a lifetime loss of SNAP redemptions, a CMP may be a reasonable alternative. A retailer may be eligible for a CMP only where it presents substantial evidence and documentation of the following criteria:

1. **An effective compliance policy.** A retailer must have implemented a written and dated policy reflecting a commitment to ensuring compliance under the SNAP. A retailer must have provided the policy to violating employees prior to the employee's breach.
2. **An effective personnel training program.** A retailer must have developed and instituted an effective personnel training program for managers and employees. A retailer must show evidence of training activity by providing, (a) dated training curricula and records of dates training sessions were conducted; (b) a record of dates of employment of the retailer's personnel; and (c) contemporaneous documentation of the participation of the violating employees in initial and any follow-up training held prior to the violations.

An effective personnel training program may establish the following protocols: (a) training for managers and employees within one month of implementation of the compliance policy and/or one month of date of hire, with periodic training thereafter; and

(b) use of written materials clearly detailing prohibited acts under the SNAP.

3. **Compliance policy and training program implemented at time of violation.** A retailer must establish that its effective compliance policy and personnel training program were in operation at the location where the violation occurred, prior to the occurrence of the violation.
4. **Retailer Ownership or Management Not Involved.** A retailer must show that, (a) its ownership was not aware of, did not approve, did not benefit from, or was not in any way involved in the conduct or approval of the trafficking violation; or (b) it is the first occasion in which a member of the retailer's management was aware of, approved, benefited from, or was involved in the trafficking violation.

However, if a trafficking violation consisted of the sale of firearms, ammunition, explosives or controlled substances, and such trafficking was conducted by the ownership or management of the retailer, a retailer is not be eligible for a CMP in lieu of permanent disqualification.

Ultimately, developing an effective compliance policy and personnel training program is a simple, cost effective measure that may protect retailers from permanent disqualification for trafficking.



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How Can Woods Rogers Help Your Retail Business?

Woods Rogers can help your retail business avoid penalties under the SNAP by creating an effective compliance policy, developing a personnel training program or responding to USDA charges. If you have any questions concerning the SNAP regulations or how Woods Rogers can help your business come into compliance, please contact Paul Thomson at (540) 983-7742 or Nicholas Albu at (540) 983-7735.



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