

No. 1986-187

AN ACT

HB 241

Providing for the operation of vending facilities by licensed blind persons; creating a Committee of Blind Vendors; granting powers to and imposing duties upon the committee; and granting powers to and imposing duties upon an administrative unit in the Department of Public Welfare.

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

Section 1. Short title.

This act shall be known and may be cited as the Little Randolph-Sheppard Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Blind person.” A person whose central acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit of the field of vision in the better eye to a degree that its widest diameter subtends an angle of no greater than 20 degrees. In determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye or by an optometrist.

“Bureau” or “Bureau of Blindness and Visual Services.” The administrative unit in the department, under the commissioner, which provides services to the blind and visually impaired.

“Commissioner.” The Commissioner of the Bureau of Blindness and Visual Services of the department.

“Committee.” The Committee of Blind Vendors established by section 3.

“Department.” The Department of Public Welfare of the Commonwealth.

“Rental fees.” The fee fixed by the commissioner and the committee for the rental of the snack bar location and equipment.

“State property.” Property owned or leased by the State government or an agency of the State government and designated by the bureau as appropriate for participation in the Business Enterprise Program. The definition shall not include property which is owned or leased for:

- (1) Rest, recreation and safety rest areas on the national system of interstate and defense highways.
- (2) Institutions of higher learning except as provided in section 9.
- (3) Institutions of the Department of Corrections.

“Vending facility.” An automatic vending machine, cafeteria, snack bar, shelter, cart or counter where food, tobacco, newspapers, periodicals or other articles are offered for sale and dispensed automatically or manually.

“Vending machine income.” Either of the following:

(1) Receipts, other than those of a blind vendor, from the operation of vending machines on State property, after cost of goods sold, where the machines are operated, serviced or maintained by or with the approval of the Commonwealth and the committee.

(2) Commissions paid other than to a blind vendor by a commercial vending concern which operates, services or maintains vending machines on State property for or with the approval of the Commonwealth.

Section 3. Committee established.

The Committee of Blind Vendors is established. The committee shall consist of blind vendors licensed under section 5. The committee shall conduct a biennial election of a president, first vice president and secretary and may conduct elections to fill vacancies in office at any time. The commissioner shall assure active participation by the committee. Active participation means a substantive ongoing process of negotiations between the commissioner and the committee to achieve joint planning and approval of program policies, standards and procedures affecting the operation of vending facilities by blind licensed vendors, with the commissioner having final administrative responsibility. The committee shall actively participate in administrative policy and program development decisions concerning vending facilities operated by blind licensed vendors.

Section 4. Blindness and visual services.

(a) General powers and duties.—The bureau shall:

(1) Survey vending facility opportunities on all State property.

(2) License blind persons for the operation of vending facilities on State property.

(3) Provide vending facility equipment and an adequate initial stock of suitable articles to licensed blind vendors.

(4) Provide the necessary training and supervision to licensed blind vendors.

(5) Issue appropriate rules and regulations to carry out the provisions of this section.

(6) Collect rental fees and appropriate vending machine income and transmit them to the Treasury Department for deposit in the Employment Fund for the Blind established by section 802 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

(b) Powers and duties in conjunction with committee.—The bureau shall, with active participation by the committee:

(1) Consider and respond to grievances of blind licensed vendors.

(2) Develop and administer a Statewide system for the transfer and promotion of blind licensed vendors.

(3) Develop training and retraining programs for blind licensed vendors and blind persons interested in obtaining a license to operate a vending facility.

(4) Organize meetings and conferences for blind vendors in this Commonwealth.

(5) Adopt regulations necessary to insure uniform administration of the vending facilities program for persons licensed under section 5. The regulations shall apply uniformly to vending facilities operated by blind licensees on Federal as well as other public property.

Section 5. Licensing.

(a) Issuance.—The bureau shall issue a license for the operation of a vending facility only to a blind person who is a resident of this Commonwealth; who qualifies for a license under the Randolph-Sheppard Act (20 U.S.C. § 107, et seq.); and who is able, after successfully completing all necessary training, to operate a vending facility. Each license shall be for an indefinite period but may be terminated or suspended if, after affording the vendor an opportunity for an appeal under section 10 to the bureau and the committee, it is determined that the facility is not being operated in accordance with this act.

(b) Termination and suspension.—Licenses may be terminated or suspended if the licensed vendor:

(1) Shows serious or repeated employment-related misconduct or mismanagement of the facility.

(2) Shows continued indebtedness or delinquency in required reporting.

(3) Is incapacitated for an extended period of time to the extent that the vendor cannot conduct the affairs of the facility.

(4) Shows restoration of sight to better than legal blindness, which is the basis of eligibility for participation in the program.

(5) Voluntarily withdraws or resigns from the program.

Section 6. Veterans preference.

Pennsylvania blind veterans shall be given preference in placement at their first vending location. This preference shall be applicable only for entry to the program and only in competition with other entering trainees. It may only be used once under the business enterprises regulations as provided for in section 804 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

Section 7. Operation of vending facility.

(a) New contracts.—No person in control of the maintenance, operation and protection of State property may offer or grant to any other party a contract or concession to operate a vending facility unless:

(1) The bureau is properly notified to negotiate an agreement with a licensed blind vendor to operate a vending facility.

(2) The bureau and the committee are not willing or able to establish a vending facility on the property.

(b) Existing contracts.—If, on the effective date of this act, a vending facility is being operated on State property by a person other than a licensed blind vendor, when the present contract expires, is terminated or comes up for renewal or upon a change of the maintenance, operation and protection of the property, the person in control shall notify the bureau and attempt to

make an agreement with the bureau for a licensed blind vendor to operate the vending facility. The bureau, with the cooperation of the person in control of the maintenance, operation and protection of the State property, shall select the type and location of the vending facility to be provided and, under the bureau's regulations, the person to operate such a facility. If the bureau determines that a vending facility, operated by a full-time licensed blind vendor, is not feasible on State property, the business enterprises program may install vending machines on the property with income accruing under section 4(a)(6). The contract for the operation of a vending facility shall specify that it shall be operated at a reasonable cost consistent with a fair return, high quality food products or service and reasonable prices.

Section 8. Income.

Income from existing vending machines on State property and from new or replacement vending machines installed on State property, after the effective date of this act shall accrue to the licensed blind vendor operating a vending facility on the property or, if none, to the Employment Fund for the Blind for uses consistent with the Randolph-Sheppard Act (20 U.S.C. § 107, et seq.). The licensed blind vendor or the bureau, as appropriate, shall be responsible for servicing and maintaining the vending machines from which income is received. The revolving Employment Fund for the Blind shall be used to:

- (1) Purchase new equipment and replace existing equipment for new and existing vending facilities, including any construction necessary for the installation of equipment or related renovation.
- (2) Purchase initial stock and supplies.
- (3) Provide training services.
- (4) Establish and maintain retirement funds or other appropriate benefits for licensed blind vendors.
- (5) Pay for necessary program operating expenses, including appropriate expenses for the committee.

Section 9. Institutions of higher learning.

An institution of higher learning which, on the effective date of this act, is a party to a lease or other contract with a Commonwealth agency entered into under section 803 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, may, when the present contract expires, is terminated or comes up for renewal, enter into contract with the bureau for the operation of a vending facility under this act. An institution of higher learning may, at any time, voluntarily participate in the program established by this act.

Section 10. Appeal.

A person aggrieved by a decision of the bureau under this act may appeal under Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

Section 11. Effective date.

This act shall take effect in 60 days.

APPROVED—The 16th day of December, A. D. 1986.

DICK THORNBURGH