

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 241

Session of
1985

INTRODUCED BY ITKIN, CESSAR, HALUSKA, PETRARCA, VROON, COHEN,
SWEET, COWELL, MRKONIC, MORRIS, GODSHALL, SEVENTY, PRESTON,
TRELLO, JOHNSON, POTT, E. Z. TAYLOR, SHOWERS, KUKOVICH,
RYBAK, DeLUCA, MICOZZIE, LASHINGER, WOGAN, DAWIDA, OLIVER,
FREEMAN, COLAFELLA, McVERRY, SEMMEL, KASUNIC, ROBBINS,
PISTELLA, TELEK AND D. R. WRIGHT, FEBRUARY 11, 1985

REFERRED TO COMMITTEE ON HEALTH AND WELFARE, FEBRUARY 11, 1985

AN ACT

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

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

8 Section 1. Short title.

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

11 Section 2. Definitions.

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

15 "Blind person." A person whose central acuity does not
16 exceed 20/200 in the better eye with correcting lenses or whose
17 visual acuity, if better than 20/200, is accompanied by a limit

1 of the field of vision in the better eye to a degree that its
2 widest diameter subtends an angle of no greater than 20 degrees.
3 In determining whether an individual is blind, there shall be an
4 examination by a physician skilled in diseases of the eye or by
5 an optometrist.

6 "Blindness and visual services." The administrative unit in
7 the department, under the commissioner, which provides services
8 to the blind and visually impaired.

9 "Commissioner." The Commissioner of the Bureau of Blindness
10 and Visual Services of the department.

11 "Committee." The Committee of Blind Vendors established by
12 section 3.

13 "Department." The Department of Public Welfare of the
14 Commonwealth.

15 "Rental fees." The fee fixed by the commissioner and the
16 committee for the rental of the snack bar location and
17 equipment.

18 "State property." Property owned or leased by the State
19 government or an agency of the State government and designated
20 by blindness and visual services as appropriate for
21 participation in the Business Enterprise Program. The definition
22 shall not include property which is owned or leased for:

23 (1) Rest, recreation and safety rest areas on the
24 national system of interstate and defense highways.

25 (2) State-related universities.

26 (3) Member institutions of the State System of Higher
27 Education.

28 "Vending facility." An automatic vending machine, cafeteria,
29 snack bar, shelter, cart or counter where food, tobacco,
30 newspapers, periodicals or other articles are offered for sale

1 and dispensed automatically or manually.

2 "Vending machine income." Either of the following:

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

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

12 Section 3. Committee established.

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

28 Section 4. Blindness and visual services.

29 (a) General powers and duties.--Blindness and visual
30 services shall:

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

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

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

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

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

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

16 (b) Powers and duties in conjunction with committee.--
17 Blindness and visual services shall, with active participation
18 by the committee:

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

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

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

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

28 (5) Adopt regulations necessary to insure uniform
29 administration of the vending facilities program for persons
30 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.--Blindness and visual services 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 9 to blindness and visual services 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

1 be applicable only for entry to the program and only in
2 competition with other entering trainees. It may only be used
3 once under the business enterprises regulations as provided for
4 in section 804 of the act of June 13, 1967 (P.L.31, No.21),
5 known as the Public Welfare Code.

6 Section 7. Operation of vending facility.

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

11 (1) Blindness and visual services is properly notified
12 to negotiate an agreement with a licensed blind vendor to
13 operate a vending facility.

14 (2) Blindness and visual services and the committee are
15 not willing or able to establish a vending facility on the
16 property.

17 (b) Existing contracts.--If, on the effective date of this
18 act, a vending facility is being operated on State property by a
19 person other than a licensed blind vendor, when the present
20 contract expires, is terminated or comes up for renewal or upon
21 a change of the maintenance, operation and protection of the
22 property, the person in control shall notify blindness and
23 visual services and attempt to make an agreement with blindness
24 and visual services for a licensed blind vendor to operate the
25 vending facility. Blindness and visual services, with the
26 cooperation of the person in control of the maintenance,
27 operation and protection of the State property, shall select the
28 type and location of the vending facility to be provided and,
29 under the blindness and visual services regulations, the person
30 to operate such a facility. If blindness and visual services

1 determines that a vending facility, operated by a full-time
2 licensed blind vendor, is not feasible on State property, the
3 business enterprises program may install vending machines on the
4 property with income accruing under section 4(a)(6). The
5 contract for the operation of a vending facility shall specify
6 that it shall be operated at a reasonable cost consistent with a
7 fair return, high quality food products or service and
8 reasonable prices.

9 Section 8. Income.

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

20 (1) Purchase new equipment and replace existing
21 equipment for new and existing vending facilities, including
22 any construction necessary for the installation of equipment
23 or related renovation.

24 (2) Purchase initial stock and supplies.

25 (3) Provide training services.

26 (4) Establish and maintain retirement funds or other
27 appropriate benefits for licensed blind vendors.

28 (5) Pay for necessary program operating expenses,
29 including appropriate expenses for the committee.

30 Section 9. Appeal.

1 A person aggrieved by a decision of blindness and visual
2 services under this act may appeal under Title 2 of the
3 Pennsylvania Consolidated Statutes (relating to administrative
4 law and procedure).

5 Section 10. Effective date.

6 This act shall take effect immediately.