

AN ACT concerning State government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Blind Vendors Act.

Section 5. Definitions. As used in this Act:

"Blind licensee" means a blind person licensed by the Department to operate a vending facility on State, federal, or other property.

"Blind person" means a person whose central visual 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 to the field of vision in the better eye to such 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, whichever the individual shall select.

"Building" means only the portion of a structure owned or leased by the State or any State agency.

"Cafeteria" means a food dispensing facility capable of providing a broad variety of prepared foods and beverages (including hot meals) primarily through the use of a line where

the customer serves himself or herself from displayed selections. A cafeteria may be fully automatic or some limited waiter or waitress service may be available and provided within a cafeteria and table or booth seating facilities are always provided.

"Committee" means the Illinois Committee of Blind Vendors, an independent representative body for blind vendors established by the federal Randolph-Sheppard Act.

"Department" means the Department of Human Services.

"Director" means the Bureau Director of the Bureau for the Blind in the Department of Human Services.

"Federal property" means any structure, land, or other real property owned, leased, or occupied by any department, agency or instrumentality of the United States (including the Department of Defense and the U.S. Postal Service), or any other instrumentality wholly owned by the United States, or by any department or agency of the District of Columbia or any territory or possession of the United States.

"License" means a written instrument issued by the Department to a blind person, authorizing such person to operate a vending facility on State, federal, or other property.

"Net proceeds" means the amount remaining from the sale of articles or services of vending facilities, and any vending machine or other income accruing to blind vendors after deducting the cost of such sale and other expenses (excluding

any set-aside charges required to be paid by the blind vendors).

"Normal working hours" means an 8-hour work period between the approximate hours of 8:00 a.m. to 6:00 p.m., Monday through Friday.

"Other property" means property that is not State or federal property and on which vending facilities are established or operated by the use of any funds derived in whole or in part, directly or indirectly, from the operation of vending facilities on any State or federal property.

"Priority" means the right of a blind person licensed by the Department of Human Services, Division of Rehabilitation Services, to operate a vending facility on any and all State property in the State of Illinois, in the same manner and to the same extent as the priority is provided to blind licensees on federal property under the Randolph-Sheppard Act, 20 U.S.C. 107, and federal regulations, 34 C.F.R. 395.30.

"Secretary" means the Secretary of Human Services.

"Set-aside funds" means funds that accrue to the Department from an assessment against the net income of each vending facility in the State's vending facility program and any income from vending machines on State or federal property that accrues to the Department.

"State agency" means any department, board, commission, or agency created by the Constitution or Public Act, whether in the executive, legislative, or judicial branch.

"State property" means all property owned, leased, or rented by any State agency. For purposes of this Act, "State property" does not include property owned or controlled by a unit of local government, a public school district, or a public university, college, or community college.

"Vending facility" means automatic vending machines, snack bars, cart service, counters, rest areas, and such other appropriate auxiliary equipment that may be operated by blind vendors and that is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and notions dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending and payment of any lottery tickets or shares authorized by State law and conducted by a State agency within the State. "Vending facility" does not include cafeterias, restaurants, the Department of Corrections' non-vending machine commissaries, the Department of Juvenile Justice's non-vending machine commissaries, or commissaries and employment programs of the Division of Mental Health or Division of Developmental Disabilities that are operated by residents or State employees.

"Vending machine", for the purpose of assigning vending machine income under this Act, means a coin, currency, or debit card operated machine that dispenses articles or services, except that those machines operated by the United States Postal Service for the sale of postage stamps or other postal products

and services, machines providing services of a recreational nature, and telephones shall not be considered to be vending machines.

"Vending machine income" means the commissions or fees paid to the State from vending machine operations on State property where the machines are operated, serviced, or maintained by, or with the approval of, a State agency by a commercial or not-for-profit vending concern that operates, services, and maintains vending machines.

"Vendor" means a blind licensee who is operating a vending facility on State, federal, or other property.

Section 10. Business Enterprise Program for the Blind.

(a) The Business Enterprise Program for the Blind is created for the purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting. In order to achieve these goals, blind persons licensed under this Act shall be authorized to operate vending facilities on any property within this State as provided by this Act.

It is the intent of the General Assembly that the Randolph-Sheppard Act, 20 U.S.C. Sections 107-107f, and the federal regulations for its administration set forth in Part 395 of Title 34 of the Code of Federal Regulations, shall serve as a model for minimum standards for the operation of the

Business Enterprise Program for the Blind. The federal Randolph-Sheppard Act provides employment opportunities for individuals who are blind or visually impaired through the Business Enterprise Program for the Blind. Under the Randolph-Sheppard Act, all federal agencies are required to give priority to licensed blind vendors in the operation of vending facilities on federal property. It is the intent of this Act to provide the same priority to licensed blind vendors on State property by requiring State agencies to give priority to licensed blind vendors in the operation of vending facilities on State property and preference to licensed blind vendors in the operation of cafeteria facilities on State property. Furthermore it is the intent of this Act that all State agencies, particularly the Department of Central Management Services, promote and advocate for the Business Enterprise Program for the Blind.

(b) The Secretary, through the Director, shall continue, maintain, and promote the Business Enterprise Program for the Blind. Some or all of the functions of the program may be provided by the Department of Human Services. The Business Enterprise Program for the Blind must provide that:

(1) priority is given to blind vendors in the operation of vending facilities on State property;

(2) tie bid preference is given to blind vendors in the operation of cafeterias on State property, unless the cafeteria operations are operated by employees of a State

agency;

(3) vending machine income from all vending machines on State property is assigned as provided for by Section 30 of this Act;

(4) no State agency may impose any commission, service charge, rent, or utility charge on a licensed blind vendor who is operating a vending facility on State property unless approved by the Department;

(5) the Department shall approve a commission to the State agency from a blind vendor operating a vending facility on the State property of the Department of Corrections or the Department of Juvenile Justice in the amount of 10% of the net proceeds from vending machines servicing State employees and 25% of the net proceeds from vending machines servicing visitors on the State property; and

(6) vending facilities operated by the Program use reasonable and necessary means and methods to maintain fair market pricing in relation to each facility's given demographic, geographic, and other circumstances.

(c) With respect to vending facilities on federal property within this State, priority shall be given as provided in the federal Randolph-Sheppard Act, 20 U.S.C. Sections 107-107f, including any amendments thereto. This Act, as it applies to federal property, is intended to conform to the federal Act, and is to be of no force or effect if, and to the extent that,

any provision of this Act or any rule adopted under this Act is in conflict with the federal Act. Nothing in this subsection shall be construed to impose limitations on the operation of vending facilities on State property, or property other than federal property, or to allow only those activities specifically enumerated in the Randolph-Sheppard Act.

(d) The Secretary shall actively pursue all commissions from vending facilities not operated by blind vendors as provided in Section 30 of this Act, and shall propose new placements of vending facilities on State property where a facility is not yet in place.

(e) Partnerships and teaming arrangements between blind vendors and private industry, including franchise operations, shall be fostered and encouraged by the Department.

Section 15. Vending facilities on State property.

(a) In order to ensure that priority is given to blind vendors in the operation of vending facilities on State property as provided in Section 10, the Secretary, directly or by delegation to the Director, and the Committee shall jointly develop rules to ensure the following:

(1) That priority is given to blind persons licensed under this Act or under its predecessor Act (the Blind Persons Operating Vending Facilities Act, 20 ILCS 2420/), including the assignment of vending machine income as provided in this Act.

(2) That one or more vending facilities shall be established on all State property to the extent feasible. Where a larger vending facility is determined by the Director and the Committee to be infeasible, every effort shall be made to place vending machines on the property whenever possible. The Director and the Committee shall take into account the following criteria when determining whether establishment of a vending facility is feasible:

(A) the number of State employees, visitors, and other potential facility customers on the property in a given period;

(B) the size, in square feet, of the area owned, leased, occupied, or otherwise controlled by the State;

(C) the duration the property is expected to be leased or occupied by the State;

(D) whether establishment of a vending facility would adversely affect the interests of the State; and

(E) the likelihood that the vending facility would produce an adequate net income for a blind vendor as determined by the average income of all blind vendors in the State.

(b) Any determination by the Director, or by the State agency controlling the property, that the placement or operation of a vending facility is not feasible, or that the placement or operation would adversely affect the interests of

the State shall be in writing and shall be transmitted to the Committee for review and ratification or rejection.

(c) The Secretary, through the Director, subject to the rules developed and adopted pursuant to subsection (a) of this Section and the requirements of federal law and regulations, is authorized to select a location for a vending facility and the type of facility to be provided.

(d) Beginning January 1, 2010, all State agencies that:

(1) undertake to acquire any property, in whole or in part, by ownership, rent, or lease, or that undertake to relocate to any property, shall request a determination from the Director or his or her designee as to whether the new property includes a satisfactory site or sites for the location and operation of a blind vendor vending facility;
or

(2) undertake to occupy a building that is to be constructed, substantially altered, or renovated, or in the case of a building that is already occupied by the State agency, undertake to substantially alter or renovate that building for use by the State agency;

shall request a determination from the Director or his or her designee as to whether that building includes a satisfactory site or sites for the location and operation of a blind vendor vending facility.

Upon receiving a request for a determination under this subsection (d), the Director or his or her designee and the

Committee shall have 10 days in which to notify that requesting State agency as to whether the new property or building is satisfactory or not satisfactory for the operation of a blind vendor vending facility. A site shall be deemed to be a satisfactory site by examining the potential customer base, including, but not limited to, State employees, State contractual employees, and the general public. The determination shall be based upon a site survey or any other reasonable means enabling an accurate assessment of the location. If the property has an existing private vendor, bottler, or vending machine operator, then the property shall be presumed to be a satisfactory site. If the Director, in consultation with the Committee, determines that the number of people using the location is or will be insufficient to support a vending facility, then the Director shall determine the property to be not satisfactory.

Upon a determination by the Director or his or her designee and the Committee that the new property or building is satisfactory for the operation of a blind vendor vending facility, the Director, in consultation with the head of the State agency and in accordance with the rules developed pursuant to subsection (a), shall inform the agency to comply with the priority established for the operation of vending facilities by blind persons under this Act.

(e) All State agencies shall fully cooperate with the Department to ensure that priority is given to blind vendors in

the operation of vending facilities on State property. This includes notifying the Department prior to the expiration of existing contracts or agreements for vending facilities or when such contracts or agreements are considered for renewal options. The notification must be given, when feasible, no later than 6 months prior to the potential expiration or renewal of the existing vending facility contract or agreement.

Section 25. Set-aside funds; Blind Vendors Trust Fund.

(a) The Department may provide, by rule, for set-asides similar to those provided in Section 107d-3 of the Randolph-Sheppard Act. If any funds are set aside, or caused to be set aside, from the net proceeds of the operation of vending facilities by blind vendors, the funds shall be set aside only to the extent necessary in a percentage amount not to exceed that determined jointly by the Director and the Committee and published in State rule, and that these funds may be used only for the following purposes: (1) maintenance and replacement of equipment; (2) purchase of new equipment; (3) construction of new vending facilities; (4) funding the functions of the Committee, including legal and other professional services; and (5) retirement or pension funds, health insurance, paid sick leave, and vacation time for blind licensees, so long as these benefits are approved by a majority vote of all Illinois licensed blind vendors that occurs after the Department provides these vendors with information on all matters relevant

to these purposes.

(b) No set-aside funds shall be collected from a blind vendor when the monthly net proceeds of that vendor are less than \$1,000. This amount may be adjusted annually by the Director and the Committee to reflect changes in the cost of living.

(c) The Department shall establish, with full participation by the Committee, the Blind Vendors Trust Fund as a separate account managed by the Department for the State's blind vendors.

(d) Set-aside funds collected from the operation of all vending facilities administered by the Business Enterprise Program for the Blind shall be placed in the Blind Vendors Trust Fund, which shall include set-aside funds from facilities on federal property. The Fund must provide separately identified sub-accounts for moneys from (i) federal and (ii) State and other facilities, as well as vending machine income generated pursuant to Section 30 of this Act. These funds shall be available until expended and shall not revert to the General Revenue Fund or to any other State account.

(e) It is the intent of the General Assembly that the expenditure of set-aside funds authorized by this Section shall be supplemental to any current appropriation or other moneys made available for these purposes and shall not constitute an offset of any previously existing appropriation or other funding source. In no way shall this imply that the

appropriation for the Blind Vendors Program may never be decreased, rather that the new funds shall not be used as an offset.

(f) An amount equal to 10% of the wages paid by a blind vendor to any employee who is blind or otherwise disabled shall be deducted from any set-aside charge paid by the vendor each month, in order to encourage vendors to employ blind and disabled workers and to set an example for industry and government. No deduction shall be made for any employee paid less than the State or federal minimum wage.

Section 30. Vending machine income and compliance.

(a) Except as provided in subsections (b), (c), (d), (e), and (i) of this Section, after July 1, 2010, all vending machine income, as defined by this Act, from vending machines on State property shall accrue to (1) the blind vendor operating the vending facilities on the property or (2) in the event there is no blind vendor operating a facility on the property, the Blind Vendors Trust Fund for use exclusively as set forth in subsection (a) of Section 25 of this Act.

(b) Notwithstanding the provisions of subsection (a) of this Section, all State university cafeterias and vending machines are exempt from this Act.

(c) Notwithstanding the provisions of subsection (a) of this Section, all vending facilities at the Governor Samuel H. Shapiro Developmental Center in Kankakee are exempt from this

Act.

(d) Notwithstanding the provisions of subsection (a) of this Section, in the event there is no blind vendor operating a vending facility on the State property, all vending machine income, as defined in this Act, from vending machines on the State property of the Department of Corrections and the Department of Juvenile Justice shall accrue to the State agency and be allocated in accordance with the commissary provisions in the Unified Code of Corrections.

(e) Notwithstanding the provisions of subsection (a) of this Section, in the event a blind vendor is operating a vending facility on the State property of the Department of Corrections or the Department of Juvenile Justice, a commission shall be paid to the State agency equal to 10% of the net proceeds from vending machines servicing State employees and 25% of the net proceeds from vending machines servicing visitors on the State property.

(f) The Secretary, directly or by delegation of authority, shall ensure compliance with this Section and Section 15 of this Act with respect to buildings, installations, facilities, roadside rest stops, and any other State property, and shall be responsible for the collection of, and accounting for, all vending machine income on this property. The Secretary shall enforce these provisions through litigation, arbitration, or any other legal means available to the State, and each State agency in control of this property shall be subject to the

enforcement. State agencies or departments failing to comply with an order of the Department may be held in contempt in any court of general jurisdiction.

(g) Any limitation on the placement or operation of a vending machine by a State agency based on a determination that such placement or operation would adversely affect the interests of the State must be explained in writing to the Secretary. The Secretary shall promptly determine whether the limitation is justified. If the Secretary determines that the limitation is not justified, the State agency seeking the limitation shall immediately remove the limitation.

(h) The amount of vending machine income accruing from vending machines on State property that may be used for the functions of the Committee shall be determined annually by a two-thirds vote of the Committee, except that no more than 25% of the annual vending machine income may be used by the Committee for this purpose, based upon the income accruing to the Blind Vendors Trust Fund in the preceding year. The Committee may establish its budget and expend funds through contract or otherwise without the approval of the Department.

(i) Notwithstanding the provisions of subsection (a) of this Section, with respect to vending machines located on any facility or property controlled or operated by the Division of Mental Health or the Division of Developmental Disabilities within the Department of Human Services:

(1) Any written contract in place as of the effective

date of this Act between the Division and the Business Enterprise Program for the Blind shall be maintained and fully adhered to including any moneys paid to the individual facilities.

(2) With respect to existing vending machines with no written contract or agreement in place as of the effective date of this Act between the Division and a private vendor, bottler, or vending machine supplier, the Business Enterprise Program for the Blind has the right to provide the vending services as provided in this Act, provided that the blind vendor must provide 10% of gross sales from those machines to the individual facilities.

Section 40. Licenses.

(a) Licenses shall be issued only to blind persons who are qualified to operate vending facilities. The continuing eligibility of a vendor as a blind person shall be reviewed biennially for partially sighted individuals or whenever the Director has information indicating the vendor is no longer blind as defined under this Act.

(b) Following agreement by the Secretary, the Director, and the Committee, the Secretary shall adopt and publish rules providing for (1) the requirements for licensure as a blind vendor; (2) a curriculum for training, in-service training, and upward mobility training for blind vendors; and (3) a regular schedule for offering the training, classes to be offered at

least once per year.

(c) Each license issued pursuant to this Section shall be for an indefinite period as described by rule. The license of a blind vendor may be terminated or suspended for good cause, but only after affording the licensee an opportunity for a full and fair hearing in accordance with the provisions of this Act.

Section 45. Committee of Blind Vendors.

(a) The Secretary, through the Director, shall provide for the biennial election of the Committee, which shall be fully representative of all blind licensees in the State. There shall be no fewer than one Committee member for each 15 licensed blind vendors in the State.

(b) The Committee is empowered to hire staff; contract for consultants including, but not limited to, legal counsel; set agendas and call meetings; create a constitution and bylaws, subcommittees, and budgets; and do any other thing a not-for-profit organization may do through the use of the Blind Vendors Trust Fund. At the discretion of the Committee major issues may be referred for initial consideration to a subcommittee, or to all blind vendors in order to ascertain their views.

(c) The Secretary shall ensure that the Committee jointly participates with the State in the development and implementation of all policies, plans, program development, and major administrative and management decisions affecting

the Business Enterprise Program for the Blind. The Secretary, through the Director, shall provide to the Committee all relevant financial information and data, including quarterly and annual financial reports, on the operation of the vending facility program in order that the Committee may fully participate in budget development and formulation, the establishment of set-aside levels, and other program requirements. A copy of all completed audits, reports, and investigations affecting the Business Enterprise Program for the Blind shall be distributed to the Committee in a timely manner. Any implementation of changes in administrative policy or program development that are within the discretion of the Department shall occur only after Committee review.

Section 50. Hearings; arbitration.

(a) Any blind vendor dissatisfied with any act or omission arising from the operation or administration of the vending facility program may submit to the Secretary a request for a full evidentiary hearing. This hearing shall be provided in a timely manner by the Department. Damages, including compensatory damages, attorney's fees, and expenses, must be paid to any operator who prevails in the full evidentiary hearing; however, payment of damages may not be paid from any program funds, the Blind Vendors Trust Fund, or federal rehabilitation funds. If the blind vendor is dissatisfied with any action taken or decision rendered as a result of the

hearing, that vendor may file a complaint for arbitration with the Secretary.

(b) If the Secretary determines that any State agency has failed to comply with the requirements of this Act, the Secretary must establish a panel to arbitrate the dispute and the decision of the panel shall be final and binding on the parties. Any arbitration panel convened by the Secretary shall be composed of 3 members, appointed as follows:

(1) one individual appointed by the Secretary;

(2) one individual appointed by the State agency determined by the Secretary to be in noncompliance with the Act; and

(3) one individual, who shall serve as chairperson, jointly designated by the members appointed under items (1) and (2); provided that, if within 30 days following the Secretary's determination of noncompliance either party fails to appoint a panel member, or if the parties are unable to agree on the appointment of the chairperson, the Secretary shall select the final panel member or may designate a hearing officer of the Department who shall preside.

(c) The Secretary may issue a letter of reprimand to a blind vendor who violates program rules or policy. Depending upon the seriousness of the alleged violation, the letter of reprimand may indicate the intention to suspend or terminate the license of the vendor. All reprimand letters shall be sent

in a medium accessible by the vendor, and shall be sent by certified mail, return receipt requested. The Secretary must make every reasonable effort to assist the subject vendor to correct the problem for which the vendor is reprimanded. No process to suspend or terminate a license shall be initiated before the vendor is accorded the opportunity for a full evidentiary hearing as provided under subsection (a). A vendor may be summarily removed from a facility only in an emergency.

Section 60. General provisions.

(a) Blind vendors operating vending facilities are subject to the applicable license or permit requirements of the county or municipality in which the facility is located necessary for the conduct of their business.

(b) Vendors licensed pursuant to this Act are authorized to keep guide animals with them while operating vending facilities subject to public health laws and rules.

(c) The Secretary, the Director, and the Committee shall cooperate in the development of rules to be promulgated by the Department regarding life standards for vending facility equipment. Such rules shall include, but are not limited to, the life expectancy of equipment; time periods within which equipment should be replaced; exceptions to the replacement time periods for equipment with no service problem history; and replacement schedules for equipment subject to excessive failures not the fault of the vendor.

(d) The Secretary, through the Director, shall assign adequate personnel to carry out duties related to the administration and management of this Act. In selecting personnel to fill any program position under this subsection, the Secretary shall ensure that the Committee has full advance opportunity to review the selections, to submit comments thereon, and to assess the adequacy of staffing levels for the program.

(e) The Secretary shall provide each vendor access to: all financial information, his or her performance ratings, and all other individual personnel documents and data maintained by the Department. This includes providing each vendor a written copy of all rules and policies adopted pursuant to this Act. Upon request, the information shall be furnished in the medium most accessible by the vendor.

(f) The surviving spouse of a current Illinois licensed blind vendor who dies may continue to operate the facility for a period of 6 months following the death of the vendor, provided that the surviving spouse is qualified by experience or training to manage the facility.

(g) The Secretary shall, by rule, require licensed blind vendors to obtain additional training to operate a blind vending facility for State property determined by a State agency to be high security property.

Section 65. Program rules.

(a) The Secretary shall promulgate and adopt necessary rules, and do all things necessary and proper to carry out this Act. The Secretary by delegation shall review these rules with the Committee at least every 3 years.

(b) The rules shall include, but are not limited to, the following: (1) uniform procedures for vendor licensing and termination; (2) criteria and standards for selecting vendors and matching them to facilities to ensure that the most qualified person is selected; (3) equipment life standards and service standards for the inventory, repair, and purchase of equipment; (4) minimum requirements for the establishment of a vending facility; (5) standards for training, in-service training, and upward mobility; and (6) policies and procedures for the collection, deposit, reimbursement, and use of all program income, including vending machine income.

Section 70. Property Survey and Report.

(a) The Department shall survey and report on State property and vending facilities not later than December 31, 2010. The report shall contain the following information:

(1) A list of all State property or other property within the State that does or reasonably could accommodate a vending facility as provided for in this Act or as provided for in the federal Randolph-Sheppard Act.

(2) For the buildings or locations that have vending facilities or vending machines in place, an indication of

the facilities operated by licensed blind vendors under the Business Enterprise Program for the Blind and an indication of the facilities operated by private entities.

(3) For the vending facilities or vending machines operated by private entities, an indication of the facilities from which commissions for the Business Enterprise Program for the Blind have been or are being collected.

(4) For the buildings or other property that do not have vending facilities in place, an indication of the locations where a vending facility could appropriately be placed, or the reasons why a vending facility is not feasible in the building or property.

(b) The Department shall obtain all available information and conduct a survey, before June 30 of every odd-numbered year after the effective date of this Act. This survey shall identify but not be limited to the following information:

(1) The number and identity of the buildings owned, leased, acquired, or occupied by the State.

(2) The number and identity of the State buildings where vending facilities or vending machines are located.

(3) The number of employees located in or visiting these buildings during normal working hours.

(4) The usable interior square footage of the building;
and

(5) Any other information the Department may determine

to be useful in expanding the Business Enterprise Program for the Blind to the maximum extent feasible consistent with the purposes of this Act.

(c) All State agencies controlling State property or parts thereof where vending machines or vending facilities are located must cooperate with the Department by providing information on the vending machines or facilities at those locations. This information shall include, but is not limited to, the terms of contracts for vending, including financial terms, and the disbursement practices for vending machine income. The Department shall incorporate this information in its reports and updates.

(d) The Department shall use the reports and updates mandated by this Section to develop greater opportunities for the placement of blind vendors, to increase vending machine income to the program, and to aid in establishing vending machines and facilities on State property.

(e) The reports and surveys prepared pursuant to this Section shall be provided to the Committee and to the appropriate committees of the General Assembly.

(20 ILCS 2420/Act rep.)

Section 90. The Blind Persons Operating Vending Facilities Act is repealed.