

ENROLLED HOUSE
BILL NO. 2174

By: Mitchell of the House

and

Weedn of the Senate

An Act relating to individuals with disabilities; amending 7 O.S. 1991, Sections 71, 72, 73, 74, 75, 77 and 78, which relate to the Blind Vendors Program; modifying administration of Blind Vendors Program; modifying definition; conforming language to new administration of program; amending 7 O.S. 1991, Section 21, which relates to the Adult Blind Revolving Fund; modifying entity that administers the fund; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 7 O.S. 1991, Section 71, is amended to read as follows:

Section 71. ~~For the purpose of assisting blind persons to become self-supporting, the Oklahoma Public Welfare Commission, Division of Visual Services, The State Department of Rehabilitation Services~~ is hereby authorized to carry on activities to promote the employment of individuals who are blind persons, including, but not limited to, the licensing and establishment of such persons as operators of vending facilities in public and other buildings. ~~The said Commission may cooperate with the federal government in the furtherance of~~ Department shall be the sole state licensing agency for the purpose of implementing and carrying out the provisions of the Act of Congress known as the Randolph-Sheppard Act (20 USCA Sections 107-107f), and amendments thereto, providing for the licensing of individuals who are blind persons to operate vending facilities in federal buildings, or any other Acts of Congress which may be hereafter enacted. Provided, that no game of chance or gambling machine shall be operated. The Division of Visual Services of the Department shall administer this program.

SECTION 2. AMENDATORY 7 O.S. 1991, Section 72, is amended to read as follows:

Section 72. For purposes of Sections 1 through 8 of this act ~~and as used herein:~~

~~(a) The term "vending~~ 1. "Vending facility" means automatic vending machines, cafeterias, snackbars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by blind licensees and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, food, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws;

~~(b) The term "net~~ 2. "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

set-aside charges required to be paid by such vendors and wages paid to operators, blind, visually impaired employees and sighted employees;

~~(c) The term "blind~~ 3. "Blind person" means a person having a visual acuity not to exceed 20/200 in the better eye, with correcting lenses, or visual acuity greater than 20/200 but with limitation in the field of vision such that the widest diameter of visual field subtends an angle no greater than twenty degrees (20°); and

~~(d) The term "satisfactory~~ 4. "Satisfactory site" means an area fully accessible to vending facility patrons, with sufficient electrical, plumbing, heating, and ventilation outlets for the location and operation of a vending facility in accordance with applicable health laws and building codes, to contain space necessary for proper vending facility service.

SECTION 3. AMENDATORY 7 O.S. 1991, Section 73, is amended to read as follows:

Section 73. A. It shall be the duty of the board of county commissioners of each county and the governing boards of all state institutions and agencies, with regard to the premises of county or state property under their respective jurisdictions, to give priority to the blind to operate vending facilities on the premises of county or state property under their respective jurisdictions. ~~Such operators shall be licensed by the Oklahoma Public Welfare Commission, Division of Visual Services operated by licensed blind operators and established by the State Department of Rehabilitation Services. Governing boards shall observe such priority by entering into an agreement with the Department. Operators shall be licensed by the Department.~~

B. Governing boards shall make available free of any charge, fee, or assessment adequate space with sufficient electrical, plumbing, heating and ventilation outlets for the operation of a vending facility on satisfactory sites in new buildings now under construction and any future buildings to be constructed, renovated or leased, in whole or in part. Governing boards shall provide free of any charge, fee or assessment the use of utilities needed to operate a vending facility.

SECTION 4. AMENDATORY 7 O.S. 1991, Section 74, is amended to read as follows:

Section 74. The fund known as the "Stand Concession Revolving Fund" shall hereafter be known as the "Adult Blind Commissary Fund", which fund, together with any amounts paid therein from any source, may be expended by the ~~Oklahoma Public Welfare Commission~~ Department of Rehabilitation Services for the operation of the vending facility program and for the payment of all other expenses heretofore payable from the Stand Concession Revolving Fund.

SECTION 5. AMENDATORY 7 O.S. 1991, Section 77, is amended to read as follows:

Section 77. Monies ~~now in or hereafter~~ accruing to or placed in the Adult Blind Commissary Fund ~~of the Oklahoma Public Welfare Commission~~ shall be expended by the ~~Commission~~ State Department of Rehabilitation Services for fixtures and equipment for vending facilities operated by individuals who are blind persons licensed by the ~~said Commission~~ Department, for the purpose of providing stocks of merchandise to ~~such~~ licensed operators, for the employment of ~~such~~ personnel as the ~~Commission~~ Department deems necessary to carry out the laws providing for the establishment of vending facilities for individuals who are blind persons, at salaries to be fixed by the ~~said Commission~~ Department, and for traveling expenses and ~~such~~ other expenses as may be necessary to carry out ~~such~~ the laws.

~~Provided, that the~~ The amounts expended by the ~~Commission~~ Department from the Adult Blind Commissary Fund for salaries, traveling and other expenses shall not exceed the total of fifty percent (50%) of the rental charges on net proceeds accruing to the Adult Blind Commissary Fund in any fiscal year. ~~Provided, further, that there~~ There shall remain at all times in ~~said the~~ the fund the principal sum of Thirty-five Thousand Dollars (\$35,000.00) or its equivalent in assets consisting of fixtures, equipment or notes covering amounts expended by the ~~Commission~~ Department for stocks of merchandise for licensed operators of vending facilities. Not less than fifty percent (50%) of the employees of a licensed vendor shall come under the federal government definition of individuals who are blind.

SECTION 6. AMENDATORY 7 O.S. 1991, Section 75, is amended to read as follows:

Section 75. ~~Any such~~ A. Every vending facility operator ~~using fixtures and equipment purchased by the Oklahoma Public Welfare Commission~~ shall be required to pay a rental or a service charge for the use thereof, and ~~said Commission~~ monthly into the set-aside fund as provided for in the Randolph-Sheppard Act (20 U.S.C., Section 107.b(3)). The Department is hereby authorized to fix the amount to be paid by such operator, which amount shall be based upon the performance of the facility and the ability of the operator to pay ~~and~~. The amount shall be on a sliding scale of zero percent (0%) to not more than twelve percent (12%) of the net proceeds of the vending facility during any one (1) month ~~and shall be maintained at a level comparable to fiscal year 1977; provided, that said rental shall be payable monthly, and shall be paid to the Oklahoma Public Welfare Commission~~ Department.

B. Any ~~such~~ operator who is furnished an initial stock of merchandise by ~~said Commission~~ the Department shall be required to reimburse the ~~said Commission~~ Department for all amounts so expended ~~and same~~. Such reimbursement shall be payable in monthly installments of not less than two percent (2%) nor more than five percent (5%) of the gross sales of the vending facility during any one (1) month, until all amounts expended by the ~~said Commission~~ Department for such purpose are repaid in full.

C. All amounts received by ~~said Commission~~ the Department under the provisions of this section shall be deposited by ~~said Commission~~ the Department in the Adult Blind Commissary Fund ~~and shall thereafter be used for the purpose for which said fund was created. The Oklahoma Public Welfare Commission is hereby empowered to make all rules and regulations which it may deem necessary to carry out the provisions of this act.~~

SECTION 7. AMENDATORY 7 O.S. 1991, Section 78, is amended to read as follows:

Section 78. There is hereby created a committee of five (5) ~~blind~~ vendors who are blind to be known as the State Committee of Blind Vendors. ~~The Oklahoma Public Welfare Commission~~ Department of Rehabilitation Services shall provide for the biennial election of the Committee which, to the extent possible, shall be fully representative of all ~~blind~~ vendors who are blind in the state program on the basis of such factors as geography and the vending facility type with a goal of providing for proportional representation of ~~blind~~ vendors who are blind on federal property and ~~blind~~ vendors who are blind on other property. ~~The State Committee of Blind Vendors~~ shall have the responsibility of participation with the ~~Commission~~ Department in major administrative decisions and policy and program development decisions affecting the overall administration of the state's vending facility program, receiving and transmitting to the ~~Commission~~ Department grievances

at the request of ~~blind~~ vendors who are blind, and serve as advocates for ~~such~~ vendors in connection with such grievances. The Committee shall actively participate in the development and administration of a transfer and promotion system for ~~blind~~ licensees who are blind, and for their training and retraining.

SECTION 8. AMENDATORY 7 O.S. 1991, Section 21, is amended to read as follows:

Section 21. A. There is hereby created in the State Treasury a Revolving Fund to be known as the Adult Blind Revolving Fund, to be administered by and under the direction of the ~~Oklahoma Public Welfare Commission~~ Department of Rehabilitation Services. Said fund shall consist of all appropriations made for such purpose and all net earnings or profits derived from its use as authorized by law. Said fund shall be used for the purchase of materials and equipment for resale to blind workers of Oklahoma at current wholesale prices, and for no other purpose.

B. Any expenditures from said fund shall be made upon authorization of the ~~Oklahoma Public Welfare Commission~~ Department. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims submitted to the Director of State Finance for audit and payment.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 12th day of March, 1997.

Speaker of the House of
Representatives

Passed the Senate the 7th day of April, 1997.

President of the Senate