



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3986

Introduced 1/8/2020, by

SYNOPSIS AS INTRODUCED:

- 20 ILCS 2421/1
- 20 ILCS 2421/5
- 20 ILCS 2421/10
- 20 ILCS 2421/11 new
- 20 ILCS 2421/15

Amends the Blind Vendors Act. Renames the Act the Vending Facilities Act. Provides that priority shall be given to blind vendors in the operation of 50% of the vending facilities on State property (rather than priority shall be given to blind vendors in the operation of vending facilities on State property). Requires each State agency controlling State property or parts thereof where vending machines or vending facilities are located to implement an aspirational goal of awarding contracts representing 50% of the vending machines or vending facilities under its control to minority-owned or women-owned businesses. Provides that each State-operated facility that has 6 or more vending machines under its control shall award at least 2 contracts for vending, where practical. Provides that the provisions of the amendatory Act apply to written contracts or agreements entered into on or after the effective date of the amendatory Act; and that any written contract or agreement in place prior to the effective date of the amendatory Act between a State agency and the Business Enterprise Program for the Blind shall be maintained and fully adhered to including any moneys paid to individual vending facilities. Defines terms. Provides that to ensure adequate competition and to encourage new participants, all written contracts or agreements for vending machines or vending facilities shall be limited to a 5-year term. Effective immediately.

LRB101 13838 KTG 64444 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The Blind Vendors Act is amended by changing
5 Sections 1, 5, 10, and 15 and by adding Section 11 as follows:

6 (20 ILCS 2421/1)

7 Sec. 1. Short title. This Act may be cited as the Vending
8 Facilities Act ~~Blind Vendors Act~~.

9 (Source: P.A. 96-644, eff. 1-1-10.)

10 (20 ILCS 2421/5)

11 Sec. 5. Definitions. As used in this Act:

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

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

1 individual shall select.

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

4 "Cafeteria" means a food dispensing facility capable of
5 providing a broad variety of prepared foods and beverages
6 (including hot meals) primarily through the use of a line where
7 the customer serves himself or herself from displayed
8 selections. A cafeteria may be fully automatic or some limited
9 waiter or waitress service may be available and provided within
10 a cafeteria and table or booth seating facilities are always
11 provided.

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

15 "Department" means the Department of Human Services.

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

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

25 "License" means a written instrument issued by the
26 Department to a blind person, authorizing such person to

1 operate a vending facility on State, federal, or other
2 property.

3 "Minority person" has the same meaning ascribed to that
4 term in the Business Enterprise for Minorities, Women, and
5 Persons with Disabilities Act.

6 "Minority-owned business" has the same meaning ascribed to
7 that term in the Business Enterprise for Minorities, Women, and
8 Persons with Disabilities Act.

9 "Net proceeds" means the amount remaining from the sale of
10 articles or services of vending facilities, and any vending
11 machine or other income accruing to blind vendors after
12 deducting the cost of such sale and other expenses (excluding
13 any set-aside charges required to be paid by the blind
14 vendors).

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

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

23 "Priority" means the right of a blind person licensed by
24 the Department of Human Services, Division of Rehabilitation
25 Services, to operate a vending facility on any and all State
26 property in the State of Illinois, in the same manner and to

1 the same extent as the priority is provided to blind licensees
2 on federal property under the Randolph-Sheppard Act, 20 U.S.C.
3 107, and federal regulations, 34 C.F.R. 395.30, except as
4 provided in Section 11 for minority-owned businesses and
5 women-owned businesses.

6 "Secretary" means the Secretary of Human Services.

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

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

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

20 "Vending facility" means automatic vending machines, snack
21 bars, cart service, counters, rest areas, and such other
22 appropriate auxiliary equipment that may be operated by blind
23 vendors and that is necessary for the sale of newspapers,
24 periodicals, confections, tobacco products, foods, beverages,
25 and notions dispensed automatically or manually and prepared on
26 or off the premises in accordance with all applicable health

1 laws, and including the vending and payment of any lottery
2 tickets or shares authorized by State law and conducted by a
3 State agency within the State. "Vending facility" does not
4 include cafeterias, restaurants, the Department of
5 Corrections' non-vending machine commissaries, the Department
6 of Juvenile Justice's non-vending machine commissaries, or
7 commissaries and employment programs of the Division of Mental
8 Health or Division of Developmental Disabilities that are
9 operated by residents or State employees.

10 "Vending machine", for the purpose of assigning vending
11 machine income under this Act, means a coin, currency, or debit
12 card operated machine that dispenses articles or services,
13 except that those machines operated by the United States Postal
14 Service for the sale of postage stamps or other postal products
15 and services, machines providing services of a recreational
16 nature, and telephones shall not be considered to be vending
17 machines.

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

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

26 "Women" has the same meaning ascribed to that term in the

1 Business Enterprise for Minorities, Women, and Persons with
2 Disabilities Act.

3 "Women-owned business" has the same meaning ascribed to
4 that term in the Business Enterprise for Minorities, Women, and
5 Persons with Disabilities Act.

6 (Source: P.A. 96-644, eff. 1-1-10.)

7 (20 ILCS 2421/10)

8 Sec. 10. Business Enterprise Program for the Blind.

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

17 It is the intent of the General Assembly that the
18 Randolph-Sheppard Act, 20 U.S.C. Sections 107-107f, and the
19 federal regulations for its administration set forth in Part
20 395 of Title 34 of the Code of Federal Regulations, shall serve
21 as a model for minimum standards for the operation of the
22 Business Enterprise Program for the Blind. The federal
23 Randolph-Sheppard Act provides employment opportunities for
24 individuals who are blind or visually impaired through the
25 Business Enterprise Program for the Blind. Under the

1 Randolph-Sheppard Act, all federal agencies are required to
2 give priority to licensed blind vendors in the operation of
3 vending facilities on federal property. Except as otherwise
4 provided in Section 11, it ~~is~~ is the intent of this Act to
5 provide the same priority to licensed blind vendors on State
6 property by requiring State agencies to give priority to
7 licensed blind vendors in the operation of vending facilities
8 on State property and preference to licensed blind vendors in
9 the operation of cafeteria facilities on State property.
10 Furthermore it is the intent of this Act that all State
11 agencies, particularly the Department of Central Management
12 Services, promote and advocate for the Business Enterprise
13 Program for the Blind.

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

19 (1) priority is given to blind vendors in the operation
20 of 50% of the vending facilities on State property;

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

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

1 this Act;

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

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

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

18 (c) With respect to vending facilities on federal property
19 within this State, priority shall be given as provided in the
20 federal Randolph-Sheppard Act, 20 U.S.C. Sections 107-107f,
21 including any amendments thereto. This Act, as it applies to
22 federal property, is intended to conform to the federal Act,
23 and is to be of no force or effect if, and to the extent that,
24 any provision of this Act or any rule adopted under this Act is
25 in conflict with the federal Act. Nothing in this subsection
26 shall be construed to impose limitations on the operation of

1 vending facilities on State property, or property other than
2 federal property, or to allow only those activities
3 specifically enumerated in the Randolph-Sheppard Act.

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

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

12 (Source: P.A. 96-644, eff. 1-1-10.)

13 (20 ILCS 2421/11 new)

14 Sec. 11. Vending facility contracts for minority-owned and
15 women-owned businesses.

16 (a) Notwithstanding any other provision of this Act, each
17 State agency controlling State property or parts thereof where
18 vending machines or vending facilities are located must
19 implement an aspirational goal of awarding contracts
20 representing 50% of the vending machines or vending facilities
21 under its control to minority-owned or women-owned businesses.

22 (b) Each State-operated facility that has 6 or more vending
23 machines under its control shall award at least 2 contracts for
24 vending, where practical.

25 (c) The provisions of this Section apply to written

1 contracts or agreements entered into on or after the effective
2 date of this amendatory Act of the 101st General Assembly. Any
3 written contract or agreement in place prior to the effective
4 date of this amendatory Act of the 101st General Assembly
5 between a State agency and the Business Enterprise Program for
6 the Blind shall be maintained and fully adhered to including
7 any moneys paid to individual vending facilities.

8 (20 ILCS 2421/15)

9 Sec. 15. Vending facilities on State property.

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

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

21 (2) That one or more vending facilities shall be
22 established on all State property to the extent feasible.
23 Where a larger vending facility is determined by the
24 Director and the Committee to be infeasible, every effort
25 shall be made to place vending machines on the property

1 whenever possible. The Director and the Committee shall
2 take into account the following criteria when determining
3 whether establishment of a vending facility is feasible:

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

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

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

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

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

18 (b) Any determination by the Director, or by the State
19 agency controlling the property, that the placement or
20 operation of a vending facility is not feasible, or that the
21 placement or operation would adversely affect the interests of
22 the State shall be in writing and shall be transmitted to the
23 Committee for review and ratification or rejection.

24 (c) The Secretary, through the Director, subject to the
25 rules developed and adopted pursuant to subsection (a) of this
26 Section and the requirements of federal law and regulations, is

1 authorized to select a location for a vending facility and the
2 type of facility to be provided.

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

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

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

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

20 Upon receiving a request for a determination under this
21 subsection (d), the Director or his or her designee and the
22 Committee shall have 10 days in which to notify that requesting
23 State agency as to whether the new property or building is
24 satisfactory or not satisfactory for the operation of a blind
25 vendor vending facility. A site shall be deemed to be a
26 satisfactory site by examining the potential customer base,

1 including, but not limited to, State employees, State
2 contractual employees, and the general public. The
3 determination shall be based upon a site survey or any other
4 reasonable means enabling an accurate assessment of the
5 location. If the property has an existing private vendor,
6 bottler, or vending machine operator, then the property shall
7 be presumed to be a satisfactory site. If the Director, in
8 consultation with the Committee, determines that the number of
9 people using the location is or will be insufficient to support
10 a vending facility, then the Director shall determine the
11 property to be not satisfactory.

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

20 (e) All State agencies shall fully cooperate with the
21 Department to ensure that priority is given to: (i) blind
22 vendors in the operation of 50% of the vending facilities on
23 State property; and (ii) minority-owned or women-owned
24 businesses in the operation of 50% of the vending facilities on
25 State property as an aspirational goal. This includes notifying
26 the Department prior to the expiration of existing contracts or

1 agreements for vending facilities or when such contracts or
2 agreements are considered for renewal options. The
3 notification must be given, when feasible, no later than 6
4 months prior to the potential expiration or renewal of the
5 existing vending facility contract or agreement.

6 (f) To ensure adequate competition and to encourage new
7 participants, all written contracts or agreements for vending
8 machines or vending facilities shall be limited to a 5-year
9 term.

10 (Source: P.A. 96-644, eff. 1-1-10.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.