

### § 106a. Financial and program audit by Secretary

Funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts to the American Printing House for the Blind shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

(Pub. L. 102-394, title III, §301, Oct. 6, 1992, 106 Stat. 1819.)

#### Editorial Notes

##### CODIFICATION

Section is from the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993, and contained additional provisions relating to Howard University, Gallaudet University, and the National Technical Institute for the Deaf, which are set out as sections 130a and 4363 of this title, respectively.

### CHAPTER 6A—VENDING FACILITIES FOR BLIND IN FEDERAL BUILDINGS

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### § 107. Operation of vending facilities

#### (a) Authorization

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, blind persons licensed under the provisions of this chapter shall be authorized to operate vending facilities on any Federal property.

#### (b) Preferences regulations; justification for limitation on operation

In authorizing the operation of vending facilities on Federal property, priority shall be given to blind persons licensed by a State agency as provided in this chapter; and the Secretary, through the Commissioner, shall, after consultation with the Administrator of General Services and other heads of departments, agencies, or instrumentalities of the United States in control of the maintenance, operation, and protection of Federal property, prescribe regulations designed to assure that—

(1) the priority under this subsection is given to such licensed blind persons (including assignment of vending machine income pursuant to section 107d-3 of this title to achieve and protect such priority), and

(2) wherever feasible, one or more vending facilities are established on all Federal property to the extent that any such facility or facilities would not adversely affect the interests of the United States.

Any limitation on the placement or operation of a vending facility based on a finding that such placement or operation would adversely affect the interests of the United States shall be fully justified in writing to the Secretary, who shall determine whether such limitation is justified. A determination made by the Secretary pursuant to this provision shall be binding on any department, agency, or instrumentality of the United States affected by such determination. The Secretary shall publish such determination, along with supporting documentation, in the Federal Register.

(June 20, 1936, ch. 638, §1, 49 Stat. 1559; Aug. 3, 1954, ch. 655, §4(a), 68 Stat. 663; Pub. L. 93-516, title II, §202, Dec. 7, 1974, 88 Stat. 1623; Pub. L. 93-651, title II, §202, Nov. 21, 1974, 89 Stat. 2-8.)

#### Editorial Notes

##### CODIFICATION

The content of Pub. L. 93-516, including provisions thereof which amended and enacted various sections of this chapter, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetted during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974. See 1974 Amendment note below.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93-651. Therefore, for purposes of codification, this chapter should be deemed to have been amended by Pub. L. 93-651, Nov. 21, 1974, 89 Stat. 2-3, in exactly the same manner as it was amended by Pub. L. 93-516.

##### AMENDMENTS

1974—Subsec. (a). Pub. L. 93-516 designated first sentence of existing provisions as subsec. (a), substituted “purposes” for “purpose”, “vending facilities” for “vending stands”, and struck out “where such vending stands may be properly and satisfactorily operated by blind persons”. An identical amendment was made by Pub. L. 93-651. See Codification note above.

Subsec. (b). Pub. L. 93-516 designated second sentence of existing provisions as subsec. (b), in the provisions preceding par. (1) of subsec. (b) as so designated, substituted reference to vending facilities for reference to vending stands, substituted provisions requiring that priority be given to blind persons for provisions requiring that preference be given so far as feasible to blind persons, substituted provisions authorizing the Secretary after consultation with the Administrator of General Services, and other heads of departments, agencies, or instrumentalities of the United States in control of maintenance, operation, and protection of Federal property to prescribe regulations for provisions authorizing the head of each department or agency in control of the maintenance, operation, and protection of Federal property after consultation with the Secretary and with the approval of the President to prescribe regulations, struck out provisions that such regulations assure such preference including assignment

of vending machine income to achieve and protect such preference for such blind persons without unduly inconveniencing such departments and agencies or adversely affecting the interests of the United States, and added pars. (1) and (2) and provisions following par. (2). An identical amendment was made by Pub. L. 93-651. See Codification note above.

1954—Act Aug. 3, 1954, provided that in authorizing the operation of vending stands preference shall be given, so far as feasible, to blind persons.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 3, 1954, effective July 1, 1954, see section 8 of act Aug. 3, 1954, set out as a note under section 49b of Title 29, Labor.

##### SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93-516, title II, §200, Dec. 7, 1974, 88 Stat. 1622, provided that: "This title [enacting sections 107b-1 to 107b-3 and 107d-1 to 107d-4 of this title, amending this section, sections 107a, 107b, 107d, 107e of this title, and section 5108 of Title 5, Government Organization and Employees, repealing sections 107c and 107e-1 of this title, and enacting provisions set out as notes under this section and section 702 of Title 29, Labor] may be cited as the 'Randolph-Sheppard Act Amendments of 1974'."

An identical provision is in section 200 of Pub. L. 93-651. See Codification note above.

##### SHORT TITLE OF 1954 AMENDMENT

Act Aug. 3, 1954, ch. 655, §1, 68 Stat. 652, provided that: "This Act [enacting section 107e-1 of this title and amending this section and sections 107a, 107b, 107e, and 107f of this title and sections 31 to 41, 42, 49b, and 49g of Title 29, Labor] may be cited as the 'Vocational Rehabilitation Amendments of 1954'."

##### SHORT TITLE

Act June 20, 1936, ch. 638, §11, as added by Pub. L. 108-136, div. A, title VIII, §852(c), Nov. 24, 2003, 117 Stat. 1556, provided that: "This Act [enacting this chapter] may be cited as the 'Randolph-Sheppard Act'."

The act June 20, 1936 is also popularly known as the "Randolph-Sheppard Vending Stand Act".

##### CONGRESSIONAL FINDINGS

Pub. L. 93-516, title II, §201, Dec. 7, 1974, 88 Stat. 1622, provided that: "The Congress finds—

"(1) after review of the operation of the blind vending stand program authorized under the Randolph-Sheppard Act of June 20, 1936 [this chapter], that the program has not developed, and has not been sustained, in the manner and spirit in which the Congress intended at the time of its enactment, and that, in fact, the growth of the program has been inhibited by a number of external forces;

"(2) that the potential exists for doubling the number of blind operators on Federal and other property under the Randolph-Sheppard program within the next five years, provided the obstacles to growth are removed, that legislative and administrative means exist to remove such obstacles, and that Congress should adopt legislation to that end; and

"(3) that at a minimum the following actions must be taken to insure the continued vitality and expansion of the Randolph-Sheppard program—

"(A) establish uniformity of treatment of blind vendors by all Federal departments, agencies, and instrumentalities,

"(B) establish guidelines for the operation of the program by State licensing agencies,

"(C) require coordination among the several entities with responsibility for the program,

"(D) establish a priority for vending facilities operated by blind vendors on Federal property,

"(E) establish administrative and judicial procedures under which fair treatment of blind vendors, State licensing agencies, and the Federal Government is assured,

"(F) require stronger administration and oversight functions in the Federal office carrying out the program, and

"(G) accomplish other legislative and administrative objectives which will permit the Randolph-Sheppard program to flourish."

An identical provision is in section 201 of Pub. L. 93-651. See Codification note above.

#### § 107a. Federal and State responsibilities

##### (a) Functions of Secretary; surveys; designation of State licensing agencies; qualifications for license; evaluation of programs

The Secretary of Education shall—

(1) Insure that the Rehabilitation Services Administration is the principal agency for carrying out this chapter; and the Commissioner shall, within one hundred and eighty days after enactment of the Randolph-Sheppard Act Amendments of 1974, establish requirements for the uniform application of this chapter by each State agency designated under paragraph (5) of this subsection, including appropriate accounting procedures, policies on the selection and establishment of new vending facilities, distribution of income to blind vendors, and the use and control of set-aside funds under section 107b(3) of this title;

(2) Through the Commissioner, make annual surveys of concession vending opportunities for blind persons on Federal and other property in the United States, particularly with respect to Federal property under the control of the General Services Administration, the Department of Defense, and the United States Postal Service;

(3) Make surveys throughout the United States of industries with a view to obtaining information that will assist blind persons to obtain employment;

(4) Make available to the public, and especially to persons and organizations engaged in work for the blind, information obtained as a result of such surveys;

(5) Designate as provided in section 107b of this title the State agency for the blind in each State, or, in any State in which there is no such agency, some other public agency to issue licenses to blind persons who are citizens of the United States for the operating of vending facilities on Federal and other property in such State for the vending of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the State licensing agency, and including the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State; and

(6) Through the Commissioner,<sup>1</sup> (A) conduct periodic evaluations of the program authorized by this chapter, including upward mobility and other training required by section 107d-4 of this title, and (B) take such other

<sup>1</sup> So in original. Probably should be "Commissioner,".