

1 AN ACT relating to vocational rehabilitation.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 163.460 is amended to read as follows:

4 As used in this chapter unless the context otherwise requires:

- 5 (1) "Office" means the Office of Vocational Rehabilitation, or ***its successor as***
6 ***designated by federal law***~~[the duly authorized division within the Office of~~
7 ~~Vocational Rehabilitation];~~
- 8 (2) "Legally blind" means a visual acuity of 20/200 or less in the better eye with
9 correction or a visual field of 20 degrees or less;
- 10 (3) "Visually impaired" means a condition of the eye with correction which constitutes
11 or progressively results for the individual in a substantial disability to employment;~~[~~
12 ~~and]~~
- 13 (4) "Executive director" means the executive director of the Office of Vocational
14 Rehabilitation or the director of the duly authorized division within the Office of
15 Vocational Rehabilitation;~~[.]~~
- 16 ***(5) "Blind vendor" means any person who meets the requirements for services***
17 ***through the business enterprise program for the blind who have been trained and***
18 ***licensed by the Department of Workforce Investment to operate a vending facility***
19 ***under the requirements of the program;***
- 20 ***(6) "Public property" means all property owned or leased by the Commonwealth of***
21 ***Kentucky, any county, municipality, or any other entity that is created by act of***
22 ***the General Assembly to perform a public function, including all property***
23 ***otherwise owned, leased, or occupied by state government; and***
- 24 ***(7) "Vending facility" means a location, structure, or space that sells foods,***
25 ***beverages, confections, newspapers, periodicals, tobacco products, lottery***
26 ***products, or other articles and services that are dispensed manually by sales***
27 ***personnel or automatically by a machine and that may be prepared on-premises***

1 or off-premises, including automatic vending machines, cafeterias, snack bars,
2 catering services, food concession vehicles, micromarkets, cart services, shelters,
3 counters, and any appropriate equipment necessary for operations.

4 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 163 IS CREATED TO
5 READ AS FOLLOWS:

6 (1) It is the intent of the General Assembly to grant blind vendors through the Office
7 of Vocational Rehabilitation and the Division of Kentucky Business Enterprise, a
8 priority in the establishment and operation of vending facilities on public
9 property in the Commonwealth. This section should be liberally construed to give
10 blind vendors the greatest possible opportunities to operate these vending
11 facilities so that they may become self-supporting. As such, the Division of
12 Kentucky Business Enterprise should be the sole source of vending on public
13 property in the Commonwealth.

14 (2) There shall be established under the authority of the office, to be directed by a
15 director appointed by the secretary of the Workforce Development Cabinet
16 pursuant to KRS 12.050, the Division of Kentucky Business Enterprise. This
17 division shall manage and supervise the Vending Facilities Program and license
18 qualified blind persons as vendors. In connection therewith, the office shall be
19 authorized to own or lease vending equipment for the operation of vending
20 facilities in federal, state, private, and other buildings. The set-aside charges
21 levied shall comply with the existing federal regulations as specified in 34 C.F.R.
22 395.9.

23 (3) One (1) or more facility placement agents shall be employed to locate and
24 establish additional vending facilities. The office shall make such surveys as may
25 be deemed necessary to determine the vending facility opportunities for blind
26 vendors in state buildings or on other property owned, leased, or otherwise
27 occupied by the state government and shall install vending facilities in suitable

1 locations on such property for the use of the blind. If such surveys result in the
2 appropriate venue for blind vendors in state buildings, then the office shall have
3 the right of first refusal to that space.

4 (4) The office, when it has determined that a public property is suitable for one (1) or
5 more vending facilities, shall determine if any blind vendors are capable of
6 operating the vending facility. If so, the office, on behalf of the blind vendor,
7 shall have the right of first refusal and the exclusive right to grant the operation
8 of any vending facilities on the public property to the blind vendor.

9 (5) The office, when an existing contract for a vending facility expires or is altered in
10 any way, shall determine if any blind vendors are capable of operating the
11 vending facility. If so, the office, on behalf of the blind vendor, shall have the
12 right of first refusal and the exclusive right to grant the operation of any vending
13 facilities on the public property to the blind vendor.

14 (6) If the office determines that a blind vendor is capable of operating the vending
15 facility, and the blind vendor has agreed to operate the vending facility, it shall
16 provide the necessary alterations, plumbing and electrical services, equipment,
17 and merchandise to the blind vendor. It shall also provide a temporary manager,
18 if necessary, and the appropriate supervision by the manager of the property. The
19 space for the vending facilities and utilities shall be provided at no cost to the
20 blind vendor.

21 (7) If a new cafeteria is constructed on a public property, or any existing cafeteria
22 contracts expire, the office shall receive notification from the property
23 management at least one hundred twenty (120) days before the expiration of the
24 contract or completion of construction and the office shall be afforded the
25 opportunity to submit a proposal for the operation of the proposed cafeteria by a
26 blind vendor.

27 (8) All existing tax exemptions for blind vendors shall not be affected by the

1 provisions of Sections 1, 2, or 3 of this Act. Blind vendors shall not be subject to
2 commissions.

3 (9) The office shall not make efforts to limit or restrict the sale of items commonly
4 sold through vending and in-person operations. There shall be no other like sales
5 on the same public property as the vending facility operated by the blind vendor.
6 Blind vendors shall not be subject to direct competition, except the blind vendor
7 may allow a short-term exception for special instances. The exception must be in
8 writing and posted in the area where competing items are sold.

9 (10) All of the net income from vending machines which are on the same property as
10 a vending facility shall be paid to the blind vendor of the vending facility.

11 (11) The office shall set aside or cause to be set aside a percentage of the net proceeds
12 of the vending facilities in a reasonable amount and pursuant to a schedule
13 approved by the United States Secretary of Education. These funds shall be
14 expended on behalf of blind vendors only for purposes specified by regulations
15 promulgated in accordance with federal law.

16 ➔Section 3. KRS 163.470 is amended to read as follows:

17 (1) The executive director shall be appointed by the secretary of the Education and
18 Workforce Development Cabinet pursuant to KRS 12.050.

19 (2) The office shall be the state agency responsible for all rehabilitation services for the
20 blind and the visually impaired and other services as deemed necessary. The office
21 shall be the agency authorized to expend all state and federal funds designated for
22 rehabilitation services for the blind and visually impaired. The Office of the
23 Secretary of the Education and Workforce Development Cabinet is authorized as
24 the state agency to receive all state and federal funds and gifts and bequests for the
25 benefit of rehabilitation services for the blind and visually impaired. The State
26 Treasurer is designated as the custodian of all funds and shall make disbursements
27 for rehabilitation purposes upon certification by the executive director.

- 1 (3) The office shall establish and implement policies and procedures for the carrying
2 out of the program of services for the blind.
- 3 (4) At the close of each biennium, the office shall prepare a financial report and present
4 it to the secretary of the Education and Workforce Development Cabinet and to the
5 Governor. The biennial report shall be published. The biennial report shall also
6 contain a precise review of the work of the office and contain necessary suggestions
7 for improvement.
- 8 (5) The office shall coordinate its functions with other appropriate public and private
9 agencies.
- 10 (6) The office shall perform all other duties as required of it by law.
- 11 (7) The executive director shall hire personnel as necessary to carry out the work of the
12 office and the provisions of KRS 163.450 to 163.470. Preference shall be given to
13 hiring qualified blind persons.
- 14 (8) The Office of Vocational Rehabilitation shall provide intake and rehabilitation
15 counseling services; distribute or sell technical educational and other aids to the
16 blind; provide educational materials such as recorded texts, braille or large-type
17 texts, or such other materials as may be deemed necessary for the education of the
18 blind; research into the development of new technical aids for the blind, mobility
19 training, work evaluation, personal adjustment, independent living, and other
20 services as needed for blind adults, and services for the blind who have other
21 disabilities; and promote employment of the blind in public and private sectors.
- 22 (9) ~~{There shall be established under the authority of the office, to be directed by a~~
23 ~~director appointed by the secretary pursuant to KRS 12.050, the Division of~~
24 ~~Kentucky Business Enterprise. This division shall manage and supervise the~~
25 ~~Vending Facilities Program and license qualified blind persons as vendors. In~~
26 ~~connection therewith, the office shall be authorized to own or lease vending~~
27 ~~equipment for the operation of vending facilities in federal, state, private, and other~~

1 buildings. ~~The set aside charges levied shall comply with the existing federal~~
2 ~~regulations as specified in 34 CFR 395.9. One (1) or more facility placement agents~~
3 ~~shall be employed to locate and establish additional vending facilities. The office~~
4 ~~shall make such surveys as may be deemed necessary to determine the vending~~
5 ~~facility opportunities for blind vendors in state buildings or on other property~~
6 ~~owned, leased, or otherwise occupied by the state government and shall install~~
7 ~~vending facilities in suitable locations on such property for the use of the blind. All~~
8 ~~of the net income from vending machines which are on the same property as a~~
9 ~~vending facility shall be paid to the blind vendor of the vending facility. Whenever~~
10 ~~there exists a conflict of interest between state agencies seeking to vend~~
11 ~~merchandise on the same state property, the agencies shall negotiate a fair~~
12 ~~agreement which shall protect the interest of both from unreasonable competition.~~
13 ~~The agreement shall be submitted to the custodial authority having jurisdiction over~~
14 ~~the property for approval. Provided, however, that in all situations the blind vendor~~
15 ~~shall be permitted to vend all items of merchandise customarily sold at similar~~
16 ~~vending facilities.~~

17 ~~(10)~~ The office, at all times, shall be authorized to provide industrial evaluation,
18 training, and employment. The office shall provide staff services which shall
19 include staff development and training, program development and evaluation, and
20 other staff services as may be deemed necessary.

21 (10)~~(11)~~ The provisions of any other statute notwithstanding, the executive director is
22 authorized to use receipt of funds from the Social Security reimbursement program
23 for a direct service delivery staff incentive program. Incentives may be awarded if
24 case service costs are reimbursed for job placement of Social Security or
25 Supplemental Security Income recipients at the Substantial Gainful Activity (SGA)
26 level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions
27 and criteria as are established by the federal reimbursement program.

1 ➔Section 4. KRS 163.480 is amended to read as follows:

2 (1) The office may contract, to the extent funds are available under this chapter and
3 under conditions and standards established by the office, with any nonprofit
4 corporation able to provide expertise in the operation of workshops for and
5 rehabilitation of individuals who are blind or visually impaired and whose
6 objectives are to carry out the purposes of KRS 163.470~~(9)~~~~[(10)]~~.

7 (2) The office shall contract with a nonprofit corporation, effective July 1, 2000, to
8 provide industrial evaluation, training, and employment opportunities for
9 individuals who are blind or visually impaired.