

111—7.2(216D) Definitions. The following definitions apply to this chapter:

“*Active licensee*” means a licensed vendor who is currently operating a vending facility in this state.

“*Active participation*” means routine consultation with the committee of blind vendors on all matters affecting the business enterprises program. When Congress amended the Randolph-Sheppard Act in 1974 to include a requirement for a committee of blind vendors elected by the vendors themselves in every business enterprises program, congressional intent was to create a routine, ongoing method for the citizens involved in the vending program to participate in the decisions that affected their lives, given a long history of agency decision making that had excluded vendors. While Congress recognized that officials of state agencies are charged with the responsibility of making decisions, Congress wished to create a situation in which these officials routinely consult the persons whom these decisions affect. Thus, “active participation” consists of the manager of the business enterprises program and also the director of the entire agency making a conscious effort to include the committee routinely in policy decisions, in changes of policy, in decisions that will expand or contract the program, in allocation of funding, and in any other matter that will affect individual vendors or the program vendors or the program as a whole.

“*Agreement*” means a written instrument entered into between the department and a vendor authorizing the vendor to operate a vending facility or facilities at a specific location and setting forth the respective responsibilities of the parties.

“*Blind*” refers to the condition of an individual who, after examination by a physician skilled in diseases of the eye or by an optometrist, whichever the individual shall select, has been determined to have: (1) not more than 20/200 central visual acuity in the better eye with correcting lenses or (2) an equally disabling loss of visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends to an angle of no greater than 20 degrees.

“*Blind licensee*” or “*licensee*” means a blind individual licensed by the department pursuant to these rules.

“*Business enterprises program*” means all activities of the department relating to vending facilities on federal, state or other property.

“*Committee*” means the state committee of blind vendors which actively participates in routine, ongoing policy making for the business enterprises program.

“*Federal property*” means any building, land or other real property in this state which is owned, leased or occupied by any department, agency or instrumentality of the United States (including, but not limited to, the Department of Defense, the Department of Veterans Affairs and the United States Postal Service).

“*Federal regulations*” means the rules established for Randolph-Sheppard Act programs by the U.S. Department of Education in 34 CFR 395 (as published in 1977).

“*Food service*” means the goods and services customarily offered by restaurants, cafeterias, snack bars or vending machines for food or beverages.

“*Inactive licensee*” means a licensee who is not currently operating a vending facility in this state.

“*License*” means a written instrument issued by the department to a blind individual authorizing that individual to operate a vending facility on federal, state or other property.

“*Management services*” means supervision, inspection, quality control, consultation, accounting, regulating, in-service training and other related services provided on a systematic basis to support and improve the operation of vending facilities operated by department licensees. “Management services” does not include services or costs which pertain to the ongoing operation of an individual facility after the initial establishment period.

“*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 vendors after deducting the cost of the sale and other expenses.

“*Other property*” means property which is not federal property on which vending facilities are established or operated by the department’s business enterprises program.

“*Permit*” means the official approval given to the department by a department, agency or instrumentality in control of the maintenance, operation and protection of federal or state property, or the person in control of other property whereby the department is authorized to establish a vending facility.

“Probation” means a disciplinary action not to exceed one year during which an operator is again attempting to meet program requirements and standards.

“Provisional” means a temporary arrangement for a first-time operator pending a permanent assignment to a facility.

“Public office building” means the state capitol, county courthouses, city or town halls and all other buildings used primarily for governmental offices of the state, county, city or town. It does not include public schools or buildings at institutions of the state board of regents or the state department of human services. “Public office buildings” are included in the term “other property.”

“Randolph-Sheppard Act” means Public Law 74-732, as amended by Public Law 83-565 and Public Law 93-516, 20 U.S.C., Chapter 6A, Section 107.

“Suspension” means a temporary cessation of all rights and privileges of a licensed operator pending disciplinary judgment as to whether an operator can or cannot comply with program standards and requirements.

“Vending facility” means automatic vending machines, cafeterias, snack bars, cart service, shelters, counters or other appropriate auxiliary equipment operated by vendors licensed by the department which are used for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages or other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with applicable health laws, and includes the vending or exchange of charges for any lottery authorized by state law and conducted by a state agency.

“Vending machine” means a coin- or currency-operated machine which dispenses articles or services. This does not include machines operated by the United States Postal Service for the sale of postage stamps or other postal products or services, machines providing services of a recreational nature, or telephones.

“Vending machine income” means receipts (other than those of a licensed vendor) from vending machine operations on federal property, after deducting the cost of goods sold (including reasonable service and maintenance costs in accordance with customary business practices of commercial vending concerns) where the machines are operated, serviced or maintained by, or with the approval of, a department, agency or instrumentality of the United States, or commissions paid (other than to a licensed vendor) by a commercial vending concern which operates, services or maintains vending machines on federal property for, or with the approval of, a department, agency or instrumentality of the United States.

“Vendor” means a blind individual licensed by the department who is operating a vending facility on federal, state or other property. (See “active licensee.”)