

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 103

H.P. 72

House of Representatives, February 6, 1989

Submitted by the Department of Human Services pursuant to Joint Rule 24.
Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative DELLERT of Gardiner.

Cosponsored by Senator GILL of Cumberland, Senator GAUVREAU of
Androscoggin and Representative FARNSWORTH of Hallowell.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

**An Act to Amend the Law Regarding Food Services Operated by the
Blind in Public Buildings.**



1 **Be it enacted by the People of the State of Maine as follows:**

3 **Sec. 1. 22 MRSA §3504**, as amended by PL 1975, c. 293, §4, is
5 repealed and the following enacted in its place:

7 **§3504. Purpose**

9 For the purpose of providing blind persons with remunerative
11 employment, enlarging the economic opportunities of blind persons
13 and stimulating blind persons to greater efforts to make
15 themselves self-supporting with independent livelihoods, the
officer, board or other authority in charge of any building or
property of the State, any county or municipality shall grant to
the Division for the Blind and Visually Impaired in the
Department of Human Services authority:

17 1. Vending facility. To install in any such buildings or
19 property a vending facility to be operated by a blind person duly
21 licensed by the Division for the Blind and Visually Impaired
whenever a vending facility may be properly and satisfactorily
operated by a blind person; or

23 2. Vending machines. To place vending machines operated by
25 the division in any such building or property if a vending
27 facility operated by a licensed blind operator is not warranted.
Income from these vending machines shall be used for the purposes
enumerated in this section.

29 **Sec. 2. 22 MRSA §3505, first ¶**, as amended by PL 1979, c. 541,
31 Pt. A, §149, is further amended to read:

33 As used in sections 3504 to ~~3511~~ 3512, unless the context
35 otherwise indicates, the following terms shall have the following
meanings.

37 **Sec. 3. 22 MRSA §3506, sub-§3**, as enacted by PL 1971, c. 88,
is amended to read:

39 **3. Income.** For the purpose of achieving and protecting the
41 preference of blind persons in the operation of vending
43 facilities as contemplated by sections 3504 to ~~3511~~ 3512, arrange
45 for the assignment of the income derived from vending machines
47 located within reasonable proximity to and in direct competition
49 with a vending facility for which authority has been granted
51 pursuant to sections 3504 to ~~3511~~ 3512, to the vending facility
operator or operators affected. If a vending machine vends
articles of a type authorized for vending pursuant to sections
3504 to ~~3511~~ 3512, and is so located that it attracts customers
who would otherwise patronize the vending facility, such machine
will be considered to be in reasonable proximity to and in direct
competition with the vending facility.

53 **Sec. 4. 22 MRSA §3506, sub-§4-A** is enacted to read:

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4-A. Vending machines. Allow the division to place vending machines in any building where a vending facility operated by a blind operator would not be feasible. Income from these machines shall accrue to the division's set-aside account for purposes stated in section 3504; and

Sec. 5. 22 MRSA §3512, as enacted by PL 1971, c. 88, is repealed and the following enacted in its place:

§3512. Application

If a vending facility not under the control of the division exists in a public building or property, the person having jurisdiction over that building or property shall give preference to the division to continue operation of the vending facility when any existing lease or contract expires or is terminated.

STATEMENT OF FACT

The current laws regarding the preference of blind persons in providing food services in state, county and municipal buildings are subject to differing interpretations. Clarification would prevent disagreements between business enterprise program staff and property managers, and increase employment opportunities for blind persons.

The business enterprise program currently creates employment opportunities for blind persons under the federal Randolph-Sheppard Act and under the Maine Revised Statutes, Title 22, sections 3504 to 3512. These laws provide a preference in the operation of food service on government property to licensed blind persons who have been trained by the business enterprise program. The blind operator is self-employed and receives no direct subsidy other than the food service location itself.

When a location is too small to support an operator, federal law provides that the business enterprise program may operate unattended food services through vending machines, with the commissions accruing to the business enterprise program account which is used only to expand similar employment opportunities for the blind and to renovate and improve existing locations.

The proposed language changes are consistent with the legislative intent of the Maine Revised Statutes Title 22, sections 3504 to 3512 and with the original federal act on which the state law was patterned.

Sections 1 and 4 confirm that the preference in providing food service in public buildings extends to vending machine

1 placement when a location would not support a full-time blind
vendor.

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5 Sections 2 and 5 confirm that while an existing nonblind
operator will not be immediately displaced, the preference must
be applied when any existing lease or contract expires.