

Subsec. (a)(2). Pub. L. 93-516, § 203(a)(1), (2), redesignated former par. (1) as (2) and substituted “Through the Commissioner, make annual surveys of concessions 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” for “Make surveys of concession-stand opportunities for blind persons on Federal and other property in the United States”. Former par. (2) redesignated (3). An identical amendment was made by Pub. L. 93-651. See Codification note above.

Subsec. (a)(3). Pub. L. 93-516, § 203(a)(1), redesignated former par. (2) as (3). Former par. (3) redesignated (4). An identical amendment was made by Pub. L. 93-651. See Codification note above.

Subsec. (a)(4). Pub. L. 93-516, § 203(a)(1), redesignated former par. (3) as (4). Former par. (4) redesignated (5). An identical amendment was made by Pub. L. 93-651. See Codification note above.

Subsec. (a)(5). Pub. L. 93-516, § 203(a)(1), (3), redesignated former par. (4) as (5), substituted “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” for “State commission for the blind in each State, or, in any State in which there is no such commission, some other public agency to issue licenses to blind persons who are citizens of the United States and at least twenty-one years of age for the operating of vending stands”, and “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” for “articles dispensed automatically or in containers or wrapping in which they are placed before receipt by the vending stand, and such other articles as may be approved for each property by the department or agency in control of the maintenance, operation, and protection thereof and the State licensing agency in accordance with the regulations prescribed pursuant to section 107 of this title”, and struck out proviso that effective four years after the enactment of the Vocational Rehabilitation Amendments of 1954, in States having an approved plan for vocational rehabilitation pursuant to the Vocational Rehabilitation Act, the licensing agency to be designated hereunder shall be the State agency designated pursuant to section 35(a)(1) of title 29 as the sole agency with respect to vocational rehabilitation of the blind, and that prior to such time, no license shall be granted except upon certification by a vocational rehabilitation agency that the individual is qualified to operate a vending stand. An identical amendment was made by Pub. L. 93-651. See Codification note above.

Subsec. (a)(6). Pub. L. 93-516, § 203(a)(1), (4), redesignated former par. (5) as (6), substantially reenacted existing provisions in cl. (B), and added cl. (A) and provisions preceding cl. (A). An identical amendment was made by Pub. L. 93-651. See Codification note above.

Subsec. (b). Pub. L. 93-516, § 203(b), substituted “operation of a vending facility” for “operation of a vending stand”, struck out one year residency requirement for giving preference, and in provisions relating to qualifications of applicants, struck out “but are able, in spite of such infirmity, to operate such stands”. An identical amendment was made by Pub. L. 93-651. See Codification note above.

Subsec. (c). Pub. L. 93-516, § 203(c), substituted “facility” for “stand” in three places. An identical amendment was made by Pub. L. 93-651. See Codification note above.

Subsecs. (d), (e). Pub. L. 93-516, § 203(d), added subsecs. (d) and (e). An identical amendment was made by Pub. L. 93-651. See Codification note above.

1954—Act Aug. 3, 1954, added to the list of articles which may be vended, articles dispensed automatically

or in containers or wrappings received by the stand and to provide that after four years the agency designated under section 35(a)(1) of title 29 shall be the sole State agency for vocational rehabilitation of the blind and to require, prior to that time, certification by agencies as a condition for issuing licenses.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 3, 1954, effective July 1, 1954, see section 8 of act Aug. 3, 1954.

TRANSFER OF FUNCTIONS

“Secretary of Education” substituted for “Secretary of Health, Education, and Welfare” in subsec. (a) pursuant to sections 301(a)(4)(B) and 507 of Pub. L. 96-88 which are classified to sections 3441(a)(4)(B) and 3507 of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Secretary of Education.

For transfer of functions and offices of Secretary and Department of Health, Education, and Welfare, including Rehabilitation Services Administration and Commissioner thereof, to Secretary and Department of Education, and for delegation of certain functions of Secretary of Education under this chapter to Assistant Secretary for Special Education and Rehabilitative Services, see sections 3417 and 3441 of this title.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

“Federal Security Administrator” substituted for “Office of Education under the Federal Security Agency, subject to the direction of the Commissioner of Education and such rules and regulations as he may, with the approval of the Federal Security Administrator, prescribe” in subsec. (a) and for “Office of Education” in subsec. (c) by Reorg. Plan No. 2 of 1946, set out in the Appendix to Title 5, which transferred functions of Office of Education and Commissioner of Education under sections 107 to 107f of this title to Federal Security Administrator. Federal Security Agency Order 62, July 16, 1946, 11 F.R. 7943, provided that these functions shall be performed under supervision and direction of Commissioner for Special Services by Director of Vocational Rehabilitation and such officers and employees of Office of Vocational Rehabilitation as Director shall designate.

Office of Education originally established in Department of the Interior from which it was transferred to Federal Security Agency by Reorg. Plan No. 1 of 1939, § 201, which is set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 107e of this title; title 23 section 111.

§ 107b. Application for designation as State licensing agency; cooperation with Secretary; furnishing initial stock

A State agency for the blind or other State agency desiring to be designated as the licensing agency shall, with the approval of the chief executive of the State, make application to the Secretary and agree—

(1) to cooperate with the Secretary in carrying out the purpose of this chapter;

(2) to provide for each licensed blind person such vending facility equipment, and adequate initial stock of suitable articles to be vended therefrom, as may be necessary: *Provided, however,* That such equipment and stock may be

owned by the licensing agency for use of the blind, or by the blind individual to whom the license is issued: *And provided further*, That if ownership of such equipment is vested in the blind licensee, (A) the State licensing agency shall retain a first option to repurchase such equipment and (B) in the event such individual dies or for any other reason ceases to be a licensee or transfers to another vending facility, ownership of such equipment shall become vested in the State licensing agency (for transfer to a successor licensee) subject to an obligation on the part of the State licensing agency to pay to such individual (or to his estate) the fair value of his interest therein as later determined in accordance with regulations of the State licensing agency and after opportunity for a fair hearing;

(3) that if any funds are set aside, or caused to be set aside, from the net proceeds of the operation of the vending facilities such funds shall be set aside, or caused to be set aside, only to the extent necessary for and may be used only for the purposes of (A) maintenance and replacement of equipment; (B) the purchase of new equipment; (C) management services; (D) assuring a fair minimum return to operators of vending facilities; and (E) retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is determined by a majority vote of blind licensees licensed by such State agency, after such agency provides to each such licensee full information on all matters relevant to such proposed program, that funds under this paragraph shall be set aside for such purposes: *Provided, however*, That in no event shall the amount of such funds to be set aside from the net proceeds of any vending facility exceed a reasonable amount which shall be determined by the Secretary;

(4) to make such reports in such form and containing such information as the Secretary may from time to time require and to comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports;

(5) to issue such regulations, consistent with the provisions of this chapter, as may be necessary for the operation of this program;

(6) to provide to any blind licensee dissatisfied with any action arising from the operation or administration of the vending facility program an opportunity for a fair hearing, and to agree to submit the grievances of any blind licensee not otherwise resolved by such hearing to arbitration as provided in section 107d-1 of this title.

(June 20, 1936, ch. 638, §3, 49 Stat. 1560; 1946 Reorg. Plan No. 2, §6, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 3, 1954, ch. 655, §4(e), 68 Stat. 664; Pub. L. 93-516, title II, §204, Dec. 7, 1974, 88 Stat. 1625; Pub. L. 93-651, title II, §204, Nov. 21, 1974, 89 Stat. 2-10.)

CODIFICATION

The content of Pub. L. 93-516, including provisions of section 204 thereof which amended this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day

intrasection 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 section should be deemed to have been amended by Pub. L. 93-651, title II, §204, Nov. 21, 1974, 89 Stat. 2-10, in exactly the same manner as it was amended by Pub. L. 93-516.

AMENDMENTS

1974—Pub. L. 93-516, §204(a)(1), substituted “A State agency” for “A State commission” in provisions preceding par. (1). An identical amendment was made by Pub. L. 93-651. See Codification note above.

Par. (2). Pub. L. 93-516, §204(a)(2), substituted “vending facility” for “vending stand” in two places. An identical amendment was made by Pub. L. 93-651. See Codification note above.

Par. (3). Pub. L. 93-516, §204(a)(2), (b), (c), in provisions preceding subpar. (A), substituted “the net proceeds of the operation of the vending facilities” for “the proceeds of the operation of the vending stands”, in subpar. (D), substituted “vending facilities” for “vending stands”, added subpar. (E), and in proviso following subpar. (E) substituted “the net proceeds of any vending facility” for “the proceeds of any vending stand”. An identical amendment was made by Pub. L. 93-651. See Codification note above.

Par. (6). Pub. L. 93-516, §204(a)(3), substituted “vending facility program an opportunity for a fair hearing, and to agree to submit the grievances of any blind licensee not otherwise resolved by such hearing to arbitration as provided in section 107d-1 of this title” for “vending stand program an opportunity for a fair hearing”. An identical amendment was made by Pub. L. 93-651. See Codification note above.

1954—Act Aug. 3, 1954, amended section generally and, among other changes, added pars. (3) to (6).

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 3, 1954, effective July 1, 1954, see section 8 of act Aug. 3, 1954.

TRANSFER OF FUNCTIONS

For transfer of functions, see note set out under section 107a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 107a, 107d-1, 107d-3 of this title.

§ 107b-1. Access to information with State licensing agencies; election and responsibilities of Committee of Blind Vendors

In addition to other requirements imposed in this title and in this chapter upon State licensing agencies, such agencies shall—

(1) provide to each blind licensee access to all relevant financial data, including quarterly and annual financial reports, on the operation of the State vending facility program;

(2) conduct the biennial election of a Committee of Blind Vendors who shall be fully representative of all blind licensees in the State program,¹ and

(3) insure that such committee's responsibilities include (A) participation, with the State agency, in major administrative decisions and policy and program development, (B) receiving

¹ So in original. The comma probably should be a semicolon.