

House Bill 337

By: Representative Walker of the 107th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 15 of Title 34 of the Official Code of Georgia Annotated,
2 relating to vending facilities on state property, so as to revise and add definitions; to change
3 certain provisions relating to the declaration of public policy of the article; to change certain
4 provisions relating to operation of vending facilities on state property and preference for
5 licensed disabled persons; to provide for a priority for vending services for blind persons and
6 other persons with disabilities who are licensed by the Department of Labor; to provide for
7 the operation of vending machines where vending facilities are not warranted; to provide for
8 a priority for cafeteria services for blind persons and other persons with disabilities who are
9 licensed by the Department of Labor; to provide for the resolution of disputes between the
10 department and an agency controlling vending facilities space; to provide for related matters;
11 to provide for an effective date; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Article 2 of Chapter 15 of Title 34 of the Official Code of Georgia Annotated, relating to
15 vending facilities on state property, is amended by striking such article in its entirety and
16 inserting in lieu thereof:

17 "34-15-40.

18 As used in this article, the term:

19 (1) 'Committee of Blind Vendors' means the elected committee of licensed blind vendors,
20 representative of all blind vendors in the Business Enterprise Program of the department's
21 Division of Rehabilitation Services, whose function is to participate with the department
22 in major administrative decisions affecting the overall administration of the Business
23 Enterprise Program.

24 (2) 'Priority' means the right of the department to establish on any state property a
25 vending facility to be operated by a licensed blind or otherwise seriously disabled
26 individual. This priority means that when the department has surveyed a state property

1 and determined that such property is suitable for the location of a vending facility, it shall
 2 have the right of first refusal and the exclusive right to the operation of any and all
 3 vending facilities on any state property which it determines are capable of being operated
 4 by a blind or otherwise seriously disabled individual which it licenses or by an individual
 5 who may be operating the facility as a temporary manager until a licensed individual can
 6 assume the operation of the vending facility. This priority shall apply to all existing,
 7 altered, or new buildings, facilities, or grounds. This priority shall be exercised
 8 exclusively by the department in its sole discretion on behalf of blind or otherwise
 9 seriously disabled individuals who are qualified and licensed as vending facility
 10 managers by the department and who are deemed capable of providing the type of service
 11 required by the management of the state property.

12 ~~(1)~~(3) 'State property' means any building, land, or other real property owned, leased, or
 13 occupied by any department, commission, board, bureau, agency, public corporation, or
 14 other instrumentality of the state, including, but not limited to, the Georgia Building
 15 Authority, and any other real property in which the state has a legal or beneficial interest;
 16 provided, however, the term 'state property' shall not include any property, real or
 17 personal, owned or leased or otherwise under the jurisdiction of the Board of Regents of
 18 the University System of Georgia, the Georgia Education Authority (University), or any
 19 county or independent school system of this state.

20 ~~(2)~~(4) 'Vending facility' means a location or structure or space which may sell food,
 21 beverages, confections, newspapers, periodicals, tobacco products, state operated lottery
 22 sales, parking lot management, and other items and services which are dispensed
 23 automatically by a machine or manually by sales personnel or attendants which may be
 24 prepared on or off the premises in accordance with applicable health laws. A vending
 25 facility may consist of, exclusively or in appropriate combination as determined by the
 26 department, vending stands, vending machines, snack bars, cart service, shelters,
 27 counters, cafeterias, catering services, commissaries, food concession vehicles, and such
 28 other appropriate facilities and equipment as may be necessary for the sale of articles or
 29 services by licensed blind persons or other persons with disabilities, as prescribed by
 30 rules and regulations adopted by the department.

31 34-15-41.

32 To effectuate the purposes of this article, it is declared to be public policy of the state that
 33 on any state property where the ~~Commissioner of Labor~~ department, in consultation with
 34 the Committee of Blind Vendors, determines it to be feasible to establish a vending facility
 35 to be operated by a licensed operator as provided in this article and where the agency or
 36 department or custodian of such property determines that such facility can be established

1 without undue inconvenience to the operation being carried on in such state building or
 2 property, the ~~preference~~ priority accorded in this article shall require that such vending
 3 facility site not be deemed available for letting to competitive bidders for
 4 revenue-producing purposes unless the ~~Commissioner~~ department, in consultation with the
 5 Committee of Blind Vendors, declines to establish on such site a vending facility for blind
 6 persons or other persons with disabilities. ~~The income to the agency controlling the space~~
 7 ~~for such facility sites shall generally not be expected to exceed reimbursement for the cost~~
 8 ~~of providing such facility site space and the services connected therewith; but in any case~~
 9 ~~where such income exceeds those purposes, it shall be paid into the state treasury, subject~~
 10 ~~to certification and audit.~~

11 34-15-42.

12 For the purpose of providing blind persons or other persons with disabilities with
 13 remunerative employment, enlarging their economic opportunities, and stimulating them
 14 to greater effort in striving to make themselves self-supporting, such blind persons or other
 15 persons with disabilities who are licensed by the Division of Rehabilitation Services of the
 16 Department of Labor shall be authorized to operate vending facilities on any state property
 17 where such vending facilities may be properly and satisfactorily operated by blind persons
 18 or other persons with disabilities. In authorizing the operation of vending facilities on state
 19 property, ~~preference~~ priority shall be given, ~~so far as feasible,~~ to blind persons or other
 20 persons with disabilities licensed by the Division of Rehabilitation Services of the
 21 Department of Labor as provided in this article; and the head of each department or agency
 22 in control of the maintenance, operation, and protection of state property shall, after
 23 consultation with the Commissioner and with the approval of the Governor, prescribe
 24 regulations designed to assure such ~~preference~~ priority, (including assignment of vending
 25 machine income to achieve and protect such ~~preference~~ priority.) for such licensed blind
 26 persons or other persons with disabilities without unduly inconveniencing such
 27 departments and agencies or adversely affecting the interests of the state.

28 34-15-43.

29 (a) Whenever any new buildings or other facilities are to be constructed on any state
 30 property or when any existing contract for vending services expires or is changed in any
 31 way, the department shall be notified and it shall promptly make an investigation and
 32 survey of the property to determine if, in its judgment, the location is suitable for one or
 33 more vending facilities. If, in the department's judgment, after consultation with the
 34 Committee of Blind Vendors, the location is suitable for a vending facility, the department
 35 may exercise its priority to establish such a vending facility.

1 (b) If the department exercises its priority under this article, it shall have the right to
2 establish such a vending facility, and it shall provide the necessary alterations, plumbing
3 and electrical services, equipment, and merchandise; a licensed or temporary manager; and
4 appropriate supervision of the manager. The agency controlling the space shall cooperate
5 with the department in whatever manner necessary in order for it to carry out the provisions
6 of this article. The space for the vending facility shall be provided at no cost to the vendor;
7 provided, however that the cost of telephone service shall be provided by the vendor. In
8 cafeteria operations, the licensed or temporary manager may pay a percentage of sales to
9 the agency controlling the space in accordance with agreements negotiated between the
10 department and the agency controlling the space.

11 34-15-44.

12 (a) If, after conducting a survey, the department, after consultation with the Committee of
13 Blind Vendors, determines that there is not sufficient population to support an on-site
14 manager but the property management desires vending machine services, the department
15 shall have the right to place vending machines on the property and to make the necessary
16 arrangements to ensure that vending machine services are provided and that the vending
17 machines are properly maintained.

18 (b) The income generated from vending machines operated pursuant to this Code section
19 shall accrue to the department to disburse in accordance with its approved program
20 regulations and policy.

21 34-15-45.

22 (a) The priority established pursuant to this article shall also apply to cafeterias, as defined
23 by the department, in accordance with this Code section.

24 (b) If a new cafeteria is to be constructed on state property or when any existing contract
25 for cafeteria services expires, the department shall be notified and shall be afforded the
26 opportunity to submit a proposal for the operation of the proposed cafeteria. If the
27 department's proposal, when considered with all other proposals, is found to be the most
28 advantageous to the state with respect to quality of services, pricing of merchandise, and
29 the rate of commission or the rental to be paid, then a priority shall be granted to the
30 department and the cafeteria operation shall be awarded to the department. Nothing in this
31 Code section shall be construed to allow the agency controlling the space to take any action
32 regarding any existing facility to subvert an already existing priority.

33 (c) The department shall be authorized to request a hearing pursuant to Code Section
34 34-15-46 if the department's proposal is rejected and there is disagreement as to whether
35 the department's proposal is competitive.

1 34-15-46.

2 (a) Except as otherwise provided in this subsection, if a dispute arises between the agency
3 controlling the space and the department concerning any matter contained in this article,
4 then either party may file a complaint setting forth the dispute with the Office of State
5 Administrative Hearings in accordance with the procedure for contested cases under
6 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Complaints concerning
7 the qualifications or status of a licensed or temporary manager who is operating under a
8 license or agreement of the department shall not be subject to this subsection.

9 (b) The Office of State Administrative Hearings shall be authorized to resolve the dispute
10 entirely upon stipulations and briefs of all parties without the presentation of oral or other
11 written evidence, it being the intent of the General Assembly to allow for an early
12 resolution to the disputes arising under this article."

13 **SECTION 2.**

14 This Act shall become effective upon its approval by the Governor or upon its becoming law
15 without such approval.

16 **SECTION 3.**

17 All laws and parts of laws in conflict with this Act are repealed.