

Enrolled
House Bill 3431

Sponsored by COMMITTEE ON RULES (at the request of Metro)

CHAPTER

AN ACT

Relating to vending facilities on public property; creating new provisions; amending ORS 346.510, 346.520, 346.525 and 346.530; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 346.510 is amended to read:

346.510. As used in ORS 346.510 to 346.570:

(1) "Cafeteria" means a food-dispensing facility:

- (a) That can provide a variety of prepared foods and beverages;
- (b) Where a patron may move through a self-service line;
- (c) That may employ some servers to wait on patrons; and
- (d) That provides seating suitable for patrons to consume meals.

(2) "Healthy vending item" and "local vending item" have the meanings given those terms by rules adopted by the Commission for the Blind in consultation with the Public Health Director and the business enterprise consumer committee.

(3) "Person who is blind" means a person who has not more than 20/200 visual acuity in the better eye with best correction or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision to such a degree that its widest diameter subtends an angle of no greater than 20 degrees and whose blindness is certified by a licensed physician who specializes in diseases of the eye.

(4) "Political subdivision" means a local government as defined in ORS 174.116, a municipality, town or village of this state.

(5) "Public building" or "property" means a building, land or other real property, or a portion of a building, land or other real property, that is [*owned, leased, managed or*] occupied by a department or an agency of the State of Oregon or by a political subdivision, except for a public elementary school, a secondary school, a public university listed in ORS 352.002 or a public corporation created pursuant to ORS 353.020.

(6) "Vending facility" means:

(a) Shelters, counters, shelving, display and wall cases, refrigerating apparatus and other appropriate auxiliary equipment that are necessary or customarily used for the vending of articles, including an established mix of healthy vending items approved by the Commission for the Blind and the agency, department or political subdivision charged with maintaining the public building or property where the vending facility is located;

[*(b) Manual or coin-operated vending machines or similar devices for vending articles, including machines or devices that accept electronic payment; or*]

(b) Vending machines; or

(c) Cafeterias or snack bars for the dispensing of foodstuffs and beverages.

(7) "Vending facility manager" means a person who is:

(a) Blind;

(b) Responsible for the day-to-day conduct of the vending facility operation; and

(c) Licensed under ORS 346.510 to 346.570.

(8) "Vending machine" means a manual or coin-operated machine or a similar device used for vending articles, including machines or devices that accept electronic payment.

(9) "Visitor venue" means a public building or property that is operated by a political subdivision of this state and that is:

(a) A convention, event or exposition center;

(b) A zoo;

(c) A performing arts center;

(d) A museum;

(e) A golf course;

(f) A facility primarily used for sporting events; or

(g) A commercial airport owned and operated by a city or a port district organized under ORS chapter 778.

SECTION 2. ORS 346.520 is amended to read:

346.520. (1) For purposes of providing persons who are blind with remunerative employment, enlarging the economic opportunities of persons who are blind and stimulating persons who are blind to greater efforts to make themselves self-supporting with independent livelihoods, persons who are blind and who are licensed under ORS 346.510 to 346.570 by the Commission for the Blind have *[priority in managing vending facilities in or on any public buildings or properties where]* **the priorities and preferences described in ORS 346.510 to 346.570 when**, in the discretion of the agency, department or political subdivision in charge of the maintenance of the public buildings or properties, vending facilities may properly and satisfactorily operate.

(2) Notwithstanding ORS 276.385, the agency, department or political subdivision charged with maintaining a public building or property where a vending facility is operated under ORS *[346.510 to 346.570]* **346.525 (1)** may not:

(a) Charge the commission or persons who are blind and who are licensed under the provisions of ORS 346.510 to 346.570 any amount for:

(A) Rental of the space where the vending facility is operated;

(B) Utility costs incurred in the operation of the vending facility; or

(C) The priority, right, permit, license or lease to operate a vending facility in or on the public building or property.

(b) Require that the commission or the vending facility manager pay to the agency, department or political subdivision any portion of a commission, gratuity or revenue earned by the vending facility manager from the operation of the vending facility.

(3) Subsection (2) of this section does not apply to charges imposed by the Department of Transportation or the Travel Information Council. Subject to the availability of funds, the department and the council may refrain from charging any amount for rental of space or utility costs described in subsection (2) of this section.

SECTION 3. ORS 346.525 is added to and made a part of ORS 346.510 to 346.570.

SECTION 4. ORS 346.525 is amended to read:

346.525. *[(1) As used in this section:]*

[(a) "Political subdivision" has the meaning given that term in ORS 346.510.]

[(b) "Vending facility" has the meaning given that term in ORS 346.510.]

*[(2)] (1) [This] The state shall grant to persons who are blind a **priority to:***

*(a) [Priority to establish and] Operate vending facilities[, other than cafeterias and in community colleges,] in public buildings in this state[.], **unless the vending facilities are:***

(A) Cafeterias; or

(B) Located at a community college or at a visitor venue.

(b) Operate vending machines located at visitor venues.

[(b)] **(2) The state shall grant to persons who are blind a preference to:**

(a) Operate cafeterias[, and vending facilities in community colleges,] in public buildings in this state, except for cafeterias located at visitor venues.

(b) Operate vending facilities located at community colleges.

(3) If a state agency, department or political subdivision constructs a new public building or facility, modifies an existing public building or facility, enters into or modifies a contract for, or otherwise seeks to procure, products or services that are customarily provided by the business enterprise program of the Commission for the Blind, including the operation of vending facilities, the agency, department or political subdivision complies with:

(a) Subsection [(2)(a)] **(1)** of this section if the agency, department or political subdivision:

(A) Notifies the commission of the intended action and allows the commission to determine whether a vending facility manager licensed under ORS 346.510 to 346.570 is able to provide the product or service;

(B) Offers to the commission a right of first refusal;

(C) Does not charge the commission or vending facility manager any amount prohibited under ORS 346.520 (2); and

(D) Procures the vending service from the commission if the service:

(i) Is offered by the commission or by persons with visual impairments under the direction and supervision of the commission; and

(ii) Meets the requirements of the agency, department or political subdivision for quality and quantity of foodstuffs and beverages available through the vending facility.

(b) Subsection [(2)(b)] **(2)** of this section if the agency, department or political subdivision:

(A) Notifies the commission of the intended action and allows the commission to determine whether a vending facility manager licensed under ORS 346.510 to 346.570 is able to provide the product or service; and

(B) Procures the vending service from the commission if the service:

(i) Is offered by the commission or by persons with visual impairments under the direction and supervision of the commission;

(ii) Meets the requirements of the agency, department or political subdivision for quality and quantity of foodstuffs and beverages available through the vending facility; and

(iii) Is offered in a bid that is equal to any other bids submitted.

SECTION 5. ORS 346.530 is amended to read:

346.530. (1) Each agency, department or political subdivision charged with maintaining public buildings or properties shall:

(a) Annually notify the Commission for the Blind in writing of any and all existing locations where vending facilities are in operation or where vending facilities might properly and satisfactorily be operated.

(b) Not less than 30 days prior to the reactivation, leasing, re-leasing, licensing or issuance of a permit for operation of any vending facility, inform the commission of the pending action.

(c) Inform the commission of any locations where vending facilities are planned or might properly and satisfactorily be operated in or about other public buildings or properties that are or may be under the jurisdiction of the agency, department or political subdivision for maintenance.

(2) If the commission offers to operate a vending facility under this section and the offer is not accepted for reasons other than the decision not to have a vending facility on the premises, the agency, department or political subdivision shall notify the commission in writing of the reasons for refusing the commission's offer. The agency, department or political subdivision shall offer the commission an opportunity to resolve the concerns raised in the written notice.

(3) Any contract or agreement between the commission and an agency, department or political subdivision relating to the operation of a vending facility entered into subsequent to July 1, 1975, that is not in compliance with or that is in violation of ORS 346.510 to 346.570 [and 346.525], is null and void.

SECTION 6. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

Passed by House May 28, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 17, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State