

# **WEST VIRGINIA LEGISLATURE**

**2025 REGULAR SESSION**

**ENGROSSED**

## **House Bill 3389**

By Delegate W. Clark

[Introduced March 17, 2025; referred to the  
Committee on Government Organization]



1 A BILL to amend and reenact §18-10G-2 of the Code of West Virginia, 1931, as amended, to  
2 exclude the Department of Tourism as a "governmental agency."

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 10G. PROVIDING OF FOOD SERVICE IN PUBLIC OFFICE BUILDINGS BY  
THE WEST VIRGINIA DIVISION OF VOCATIONAL REHABILITATION.**

**§18-10G-2. Definitions.**

1 For the purpose of this article:

2 (a) "Active participation" means an ongoing process of negotiations between the division of  
3 vocational rehabilitation and the committee of blind vendors to achieve joint planning of policies,  
4 procedures and standards affecting the overall operation of the "food services facilities program"  
5 prior to their implementation by the division of vocational rehabilitation. It is understood that the  
6 division of vocational rehabilitation bears final responsibility for the administration and operation of  
7 the "food services facilities program," including the assurance of active participation by the  
8 committee of blind vendors.

9 (b) "Blind person" means a person whose central acuity does not exceed 20/200 in the  
10 better eye with correcting lenses or whose visual acuity, if better than 20/200, but is accompanied  
11 by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends  
12 an angle of no greater than twenty degrees. In determining whether an individual is blind, there  
13 shall be an examination by a physician skilled in diseases of the eye or an optometrist, whichever  
14 the individual shall select.

15 (c) "Blind vendor" means a blind licensee who is operating a food services facility on  
16 federal, state, public or private property.

17 (d) "Committee of blind vendors" means an officially constituted body functioning in an  
18 advisory capacity of the division of vocational rehabilitation's food services facilities program. This

committee is composed of licensed blind vendors, elected biennially and established, constituted and maintained in accordance with applicable federal regulations.

(e) "Food service facility" means and includes a restaurant, cafeteria, snack bar, vending machine for the dispensing of foods, beverages, confections, tobacco or other products for human consumption, and other facilities for the sale or providing of goods and services for the purposes customarily offered in connection with the operation of any of the foregoing. The term "food service facility" does not include, and there is expressly excepted therefrom, goods and services sold, dispensed from, or provided by the veterans administration and the facilities for the sale, dispensing or providing thereof.

(f) "Governmental agency" means and includes the State of West Virginia, each instrumentality and agency thereof, and every county, city and town within and every political subdivision within the State of West Virginia, except county boards of education, the West Virginia board of regents, the department of health, the Department of Commerce, the Department of Tourism, and the department of corrections.

(g) "Licensee" means all persons licensed under the division of vocational rehabilitation to operate food service facilities under the Randolph/Sheppert Act, Title XX, United States Code 107, *et seq.*

(h) "Public office building" means and includes the State Capitol, all county courthouses, all city and town halls, all buildings used primarily for governmental offices of the state and of any county, city and town within the state, but does not include buildings used for institutions under the jurisdiction of the West Virginia board of regents, the department of health, the Department of Commerce, the Department of Tourism, and the department of corrections.

(i) "Vending machine income" means receipts other than those of a blind licensee from the operation of vending machines on public property after deducting the cost of goods sold when machines are operated, serviced or maintained by, or with the approval of the division of vocational rehabilitation, or commissions paid to other than a licensee by a commercial vending

45 concern which operates, services or maintains vending machines on public property for or with the  
46 approval of the division of vocational rehabilitation.

47 (j) "Designee" means an individual or an organization of individuals legally constituted, and  
48 under the jurisdiction of the division of vocational rehabilitation, doing business in the State of  
49 West Virginia, to assist the state agency with the administration and supervision of the food  
50 services facilities program.