

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1971

ENROLLED

SENATE BILL NO. 149

(By Mr. McCOURT, MR. PRESIDENT)

PASSED MARCH 13 1971

In Effect NINETY DAYS FROM Passage



FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 4-2-71

149

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Senate Bill No. 149

(By MR. McCOURT, MR. PRESIDENT)

[Passed March 13, 1971; in effect ninety days from passage.]

AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article ten-g, relating to the operation of food service in public office buildings by the West Virginia society for the blind and severely disabled.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article ten-g, to read as follows:

ARTICLE 10G. PROVIDING OF FOOD SERVICE IN PUBLIC OFFICE BUILDINGS BY THE WEST VIRGINIA SOCIETY FOR THE BLIND AND SEVERELY DISABLED.

§18-10G-1. Policy and purposes; construction.

1 It is hereby declared to be the policy of this state and
2 the purposes of this article to provide blind and severely
3 disabled persons with the maximum opportunities for
4 remunerative employment and for training for such em-
5 ployment; to enlarge the economic opportunities of the
6 blind and severely disabled; and to stimulate them to
7 greater effort in striving to make themselves self-sup-
8 porting. This article shall be construed so as to most ef-
9 fectively carry out this policy and to accomplish these
10 purposes.

§18-10G-2. Definitions.

1 For the purpose of this article:

2 (a) "Public office building" shall mean and include the
3 state capitol, all county courthouses, all city and town
4 halls, all buildings used primarily for governmental of-
5 fices of the state and of any county, city and town within
6 the state, but shall not include public school buildings

7 and buildings of institutions under the jurisdiction of the
8 West Virginia board of regents, the department of health,
9 the department of mental health, the department of nat-
10 ural resources or the commissioner of public institutions.

11 (b) "Food service" shall mean and include a restaurant,
12 cafeteria, snack bar, vending machine for the dispensing
13 of foods, beverages, confections, tobacco, or other pro-
14 ducts for human consumption, and other facilities for
15 the sale or providing of goods and services of the types
16 customarily offered in connection with the operation of
17 any of the foregoing: *Provided*, That the term "food ser-
18 vice" shall not include, and there is expressly excepted
19 therefrom, goods and services sold, dispensed, or provided
20 by the veterans administration and the facilities for the
21 sale, dispensing, or providing thereof.

22 (c) "Society" shall mean the West Virginia society
23 for the blind and severely disabled, a nonstock corpora-
24 tion.

25 (d) "Governmental agency" shall mean and include
26 the state of West Virginia, each instrumentality and

27 agency thereof, and every county, city and town within
28 and every political subdivision of, the state of West Vir-
29 ginia, except county boards of education, the West Vir-
30 ginia board of regents, the department of health, the de-
31 partment of mental health, the department of natural
32 resources or the commissioner of public institutions.

**§18-10G-3. Operation of food service in public office buildings
by West Virginia division of vocational rehabili-
tation; operation of food service by governmental
agency in violation of article prohibited.**

1 (a) If a governmental agency proposes operating in
2 a public office building a food service, whether such op-
3 eration be of a food service in existence on the effective
4 date of this article or be one thereafter to be instituted,
5 the governmental agency, before continuing such exist-
6 ing operation beyond the period of six months imme-
7 diately following the effective date of this article or
8 before instituting such proposed new operation, shall
9 in writing offer to the society the opportunity to operate
10 such food service in such public office building.

11 (b) If the society within sixty days from the receipt
12 of the offer mentioned in subsection (a) of this section
13 elects to operate such food service as is mentioned in
14 the offer and if the governmental agency by which
15 such offer shall have been made does not, within such
16 sixty-day period, make the determination of inability
17 mentioned in subsection (d) of this section in the man-
18 ner prescribed in that subsection, the society may in-
19 stitute and conduct the operation of such proposed food
20 service in such public office building without the pay-
21 ment of rent or other compensation for the premises
22 occupied by it in the rendition of such service therein
23 or for the privilege of conducting such operation.

24 (c) If the society under the authority of subsection
25 (b) of this section shall institute and conduct the opera-
26 tion of such food service as is mentioned therein, the
27 governmental agency shall not during the course of
28 such operation, operate a food service in such public
29 office building or by contract, lease, license, or other-
30 wise, permit any other person, firm, corporation, or
31 agency so to do.

32 (d) If within sixty days from the receipt by the so-
33 ciety of the offer mentioned in subsection (a) of this
34 section, the society shall reject or shall fail to accept the
35 offer, or the governmental agency by which the offer
36 was made shall, in good faith and after a full and thor-
37 ough study of the relevant circumstances, determine that
38 the society is unable satisfactorily to operate such pro-
39 posed food service, or the society shall have accepted
40 such offer, but, within the period of six months from
41 such acceptance, shall have failed to institute such food
42 service, such proposed food service may thereupon be
43 provided in such other manner as may be permitted
44 by law, free from the requirements of this article, and
45 if so instituted, the society shall not thereafter, without
46 the express permission of the offering agency, institute
47 such proposed food service in the public office building
48 designated in such offer. If the governmental agency by
49 which such offer shall have been made shall make the
50 determination of inability of the society to operate the
51 proposed food service, the governmental agency shall,
52 within the aforementioned sixty-day period, provide

53 the society with a full written statement of the reasons
54 upon which such determination was predicated, and a
55 food service shall not be operated in such public office
56 building free from the requirements of this article until
57 the written statement mentioned in this subsection shall
58 have first been given.

59 (e) Notwithstanding any other provisions contained
60 in this article, no governmental agency shall by reason
61 of the provisions of this article take any action which
62 will result in the violation of the terms of any valid
63 contract, lease or license existing on the effective date
64 hereof, nor shall such governmental agency be precluded
65 from extending the period of such an existing contract,
66 lease or license upon the same terms, and with the same
67 contracting parties, as in the contract, lease or license so
68 extended.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Russell G. Beall
Chairman Senate Committee

Phyllis Rutledge
Chairman House Committee

Originated in the Senate.

To take effect 90 days from passage.

Howard Meyer
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

John Stout
President of the Senate

Lewis N. McManus
Speaker House of Delegates

The within *approved* this the *1st*
day of *April*, 1971.

Arch A. Moore Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/17/71

Time 11:50 A.M.

RECEIVED

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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA