

Sec. 10-303-6. Vending facility operating agreement

This section of the regulations authorizes the board to enter into agreements with individual blind persons, setting forth the terms and conditions under which a vending facility is established and operated including the rights, duties and obligations of both parties as set forth in these regulations.

In addition to requirements imposed by state and federal law and other sections of these regulations, the vending facility operating agreement shall:

(a) identify the parties to the agreement as the licensed vendor and the board, acting through its division of industries;

(b) specify the site and type of vending facility to be operated including the kind of merchandise to be sold;

(c) establish the length of time of the agreement as indefinite or provide that the time period shall coincide with the termination date of the permit or any extension thereof;

(d) provide for termination of the agreement by:

(1) the vendor after adequate notice to the board, but no less than sixty (60) days;

(2) the death, incapacity or inability of the vendor to continue to operate the facility;

(3) the suspension or termination of the vendor's license by the division of industries as provided for by these regulations; or

(4) the division of industries for other valid reasons such as its inability to obtain extension of the permit or insufficient income from the vending facility to warrant its continued operation.

All such decisions shall be reviewed with the committee.

(e) provide that the vendor account to the division of industries for proceeds of the business by maintaining financial, personnel and payroll records adequate to permit the preparation of periodic tax or other reports required by the board or by state or federal law and shall, as a minimum, require the vendor to file the following reports with the division of industries:

(1) a weekly "vending facility business report" on a form provided by the board listing the financial activities of the facility.

(2) a duplicate copy of the vendor's annual profit or loss statement, Form 1040, Schedule "C", accompanied by the vendor's certification signed under penalty of perjury attesting that it is a true copy as filed with the internal revenue service, such duplicate copy to be filed no later than April 15th of each year.

(f) provide that any vendor who submits an incorrect financial statement concerning the facility operation or who fails to submit such reports or is delinquent in filing such reports is subject to revocation of his vending facility license;

(g) provide for compliance by the vendor with division of industries evaluation to verify and assure the correctness of all reports;

(h) provide for a periodic audit of the facility's financial affairs by the board as in its discretion it deems necessary and that the vendor will make available to the division of industries any books, records and accounts connected with the facility's operation for the following purposes:

(1) review of the adequacy of the books of account maintained for the facility;

(2) a general verification of the facility's accounts;

(3) a determination of the facility's financial condition, its operating results and adherence by the vendor to established fiscal principles; and

(4) a determination of the gross profit on direct sales percentage that the facility should yield.

(i) prohibit the vendor from dealing in games of chance except as permitted by state or federal laws;

(j) provide for the establishment and maintenance by the vendor of bank checking and savings accounts to be used for the sole purpose of:

(1) receipt and disbursement of funds pertinent to the facility's operation;

(2) separation and safe keeping of funds for payment of all sales, income or other taxes during interim periods of collection and payment; and

(3) that such bank accounts shall be used exclusively for the fiscal affairs of the facility without intermingling of personal or other funds.

(k) require the operation of the facility to be on a cash basis except for such credit accounts as may be established or authorized by the division of industries;

(l) provide that the value of a facility's stock and/or cash will be maintained at a level at least equal to the wholesale value of the initial stock and that assets will exceed liabilities during the term of the agreement;

(m) provide for accounting for and payment by the vendor at cost price for any merchandise taken by him for personal use;

(n) establish the level of potential income which the facility is expected to produce with efficient operation and provide:

an opportunity to the vendor to increase his reported income through improved methods of operation and control when such income is out of proportion to the potential anticipated income established in the agreement; and

(o) provide that the vendor:

(1) must keep the facility open during normal working hours;

(2) will make adequate advance plans to provide a relief or substitute operator for any planned or unforeseen absences of short duration;

(3) will furnish the division of industries with the name or names of such relief or substitute operator who may be hired in emergency situations;

(4) will immediately report his inability to locate a relief or substitute operator to the division of industries; and

(5) will pay the salaries of persons hired to relieve or substitute for him.

(p) provide that the vendor will employ sufficient staff to ensure the efficient operation of the facility and adequate service to the public and provide that:

(1) a normal employer-employee relationship exists between the vendor and his staff; and

(2) the division of industries may recommend the dismissal of any person employed by the vendor when the actions of such employee are considered contrary to the best interests of the facility operation or its location.

(q) provide that the vendor will deal with the public in a fair and responsible manner concerning pricing of merchandise, and: subject to the approval of the division of industries, will adopt pricing policies that are competitive with the facility's immediate locale.

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(r) provide that placement of signs on the premises of a facility will be made only with prior approval of the division of industries and in accordance with any conditions set forth in the board's agreement with the location owner or manager;

(s) provide that the vendor will report to the division of industries field representative any accident or injury which occurs at the vending facility location within one (1) working day of the occurrence of such accident or injury;

(t) set forth any terms or conditions the division of industries determines necessary to the efficient operation of said vending facility.

(Effective July 23, 1987)