

**BLIND ENTREPRENEURS INITIATIVE**

**THE BLITZ**

**Summer, 2016**

In every issue of The Blitz, we talk about how busy the last 3 months have been and all the whacky things happening in the world of Randolph-Sheppard. You probably tire of hearing it so I won't tell you what a whirlwind it's been. I will let the pages that follow do our talking.

***Taking the Offense Against the Department of Defens***e - In June, the Department of Defense published proposed rules that would effectively eliminate the Randolph-Sheppard priority for troop dining contracts. At first, some in our community called us Chicken Little and proclaimed the sky is not falling. But DOD wrote the proposed rules very cleverly and one must read closely to get the full meaning and everyone soon realized our doomsday predictions were not just rhetoric. If these rules become final, few if any of our 40+ troop dining contracts will remain in 5 years. The National Federation of the Blind and National Association of Blind Merchants sprang into action choosing to take the offensive. So what did we do?

* **Comments, Comments, and More Comments** - When DOD published the proposed rules, public comments were solicited as required by law. DOD wanted to hear from citizens about the potential impact of the proposed rules. We decided to accommodate them. NFB, NABM, NFBEI, NCSAB, the NCSAB Randolph-Sheppard Committee, and a few others submitted detailed comments. Most of these focused on how the proposed rules are in conflict with current Randolph-Sheppard regulations. NABM spearheaded an effort that resulted in most blind entrepreneurs who hold troop dining contracts and their teaming partners submitting comments. NCSAB led an effort that resulted in many state licensing agencies submitting comments. But the NFB and NABM took it a step further. We created a website that allowed blind entrepreneurs and other interested parties to submit comments. 4580 people took advantage of the website to let their voices be heard. In total, 4755 comments were submitted and 99% opposed the rules. Washington insiders tell us they've never seen such a response on a single issue of this nature. Can you imagine DOD's surprise? Before finalizing the rules, DOD must analyze all of the comments and respond to the issues raised. If nothing else, we’ve given our dear friends at DOD something to do in the event they were bored.
* ***Let’s Be Resolute About This*** – At is convention in Orlando in July, the members of the National Federation of the Blind passed a resolution demanding that the Department of Defense withdraw its proposed rules. To view the Resolution 2016-10 Regarding Application of the Randolph-Sheppard Act to Military Dining Facilities, click on the following link: <https://nfb.org/2016-resolutions>
* **Education May We Have Your Attention Please**? -  Recognizing that DOD cannot proceed with any rule that the Department of Education says conflicts with current Randolph-Sheppard rules, we turned our focus to Education. NABM President Nicky Gacos wrote the Secretary of Education a detailed letter seeking his support. But we didn’t stop there. Having had such success with the public comments, the NFB and NABM created another website that allowed blind entrepreneurs to send emails to the Secretary of Education urging him and his department to protect the Randolph-Sheppard Program. We urged him to just say no when DOD asks for Education's approval of any rule that would be harmful to blind entrepreneurs. Our focus this time was just on blind entrepreneurs and over 400 sent emails. Can you imagine DOE's surprise when their inboxes began to fill up?  Maybe with a resounding cry from their constituents, our friends in the Department of Education will have the courage to just say no.
* **Congress is Listening** – Another part of our strategy was to enlist the support of members of Congress. We focused our efforts on those members who have blind entrepreneurs operating troop dining contracts in their districts / states with a special emphasis on members of the House and Senate Armed Services Committees. Parnell Diggs, NFB Director of Government Affairs, has also reached out to members of Congress on our behalf. We asked members to write to Departments of Defense and Education expressing concern about the proposed rules and the impact they’d have on blind entrepreneurs. We had modest success in getting letters written. One member has engaged the White House on the matter. We have several others who are contemplating writing to the Department of Education on our behalf. If you live in a state that has a member on the Senate HELP Committee and you have a relationship with that Senator or a key staff member, we can use your help. Let us hear from you and we can tell you how to approach them and for what to ask.
* **Here Comes the Judge** – So, what happens if our thousands of comments, pressure on the Department of Education, and Congressional strategy do not work? We go to federal court. We have raised enough money to at least file the lawsuit. We believe that Congress gave the authority to promulgate rules related to the Randolph-Sheppard Program only to the Department of Education. We also believe that the proposed rules are in conflict with current Randolph-Sheppard regulations promulgated by the Department of Education and, therefore, would be illegal. Brown, Goldstein, and Levy have been retained to handle the case. The complaint will be filed by the NFB and NABM but NCSAB, several state licensing agencies, and some Randolph-Sheppard entrepreneurs are signing on to the case. We are optimistic that a federal judge will agree with us and block implementation of the rules.
* **Turning Back the Veil on AbilityOne** – In past issues of The Blitz, we have not been bashful about talking about the incestuous relationship between DOD and AbilityOne. NABM has submitted a Freedom of Information Act request to gain access to communications between AbilityOne, DOD, and others regarding these proposed rules. Perhaps, it will shed some light on why DOD chose to virtually eliminate the Randolph-Sheppard priority on military bases in favor of awarding literally millions of dollars in new contracts to AbilityOne, which just so happens to be under federal investigation. AbilityOne is putting up roadblocks in an effort to block the release of the requested information but we continue to work through the process. President Obama has preached transparency and that is all we are requesting.

As we go to press, we are in a holding pattern waiting to see what DOD will do. They really have 3 options. They could choose to proceed with the rules as written. They could tweak the rules based on some of the public comments. And then there is always the possibility that they decide to not proceed with any rules at this time. Stay tuned.

***Calorie Disclosure Coming to a Vending Machine Near You*** - If you haven't heard, you've been living under a rock. Effective December 1st vending operators must post the calorie count for most products sold in vending machines. This includes any Randolph-Sheppard vendor who operates 20 or more vending machines. There are 3 ways to comply with the rule:

* Post a sign on or adjacent to the machine that lists all products in a machine and the number of calories for each;
* In glass front machines, the calories can appear on the package of the product as long as the purchaser can read it; or,
* Use a high tech feature on the machine that advises the customer of the calorie count.

There are exceptions. The requirement does not apply to vendors with 19 or fewer vending machines and rolled candy, mints, and gum are exempt. It should also be noted that vending machines on full-service where the vendor receives a commission from a third party do not count toward that limit of 20 machines. However, that third party vendor is required to comply with the law.

We believe the easiest and most effective way to comply when it comes to products sold in glass front machines is to sell only products that disclose calorie content on the front of pack. The largest vending companies in the country are telling distributors they won't buy products that do not have front of pack labeling. The intent is to pressure product manufacturers.  If they can do it, so can blind entrepreneurs.  We also believe that micromarkets offer a potential solution. These markets are not covered by the law. In reality, SLA's should have already been replacing many vending banks with micromarkets because they mean more sales and greater profits for blind guys. The labeling adds an additional incentive.

***Rest Area Commercialization Raises Its Ugly Head*** – Well folks, don’t look now but the U.S. Department of Transportation’s Federal Highway Administration is taking another look at commercial activities at interstate rest areas. These rest areas provide employment for more blind entrepreneurs than any other entity and also are a steady income stream for many BE Programs. However, several states are suggesting it might be time to look at how the current law is being interpreted. The world has changed since the law was enacted over 30 years ago. Technology has changed the vending industry tremendously during that time and the FHA wants to know if it should possibly change the way it interprets the current law. For example, the law does not define “vending machine.” How should this term be defined? The Department of Transportation has posted a notice in the Federal Register seeking comments on the following:

1. Considering advances in technology, what defines a vending machine in today's world?
2. What types of “media” should be considered as promoting tourism in the State?
3. Should local agricultural products be considered media that promotes tourism?
4. Are there other commercial activities that should be allowed consistent with Federal law?
5. Is there a need for additional Federal guidance on commercial activities in Interstate rest areas, and if so, what should the guidance address?

We are still studying this matter and will be sending out more information later on how we believe our community may want to respond. The deadline for submitting comments is December 27th so we have some time. We want to be thorough in our review and strategic in our comments. But one thing is certain. We will advocate strongly to protect the livelihoods of hundreds of blind entrepreneurs who service vending at the interstate rest areas. You can read the Federal Register post by clicking on the following link: <https://www.federalregister.gov/documents/2016/09/27/2016-23269/commercial-activities-on-interstate-rest-areas>

***It Will be a Music City BLAST*** – It’s not too early to mark your calendars for our 2017 BLAST (Business Leadership and Superior Training) Conference. It will be a Music City BLAST September 12-15 at the Nashville Airport Marriott Hotel. We will be returning to the site of the 2011 BLAST. For the last 5 years, we’ve been asked many times, “When are we going back to Nashville?” We can now say it will be next year. That’s just 11 months away and will be here before you know it. It will be hard to beat this year’s Windy City BLAST but we think we can do it. Nashville is a fun city and we plan on making it a fun experience for everyone who attends. And who knows? You may even get to hear a little country music. As you may have known, we were on an 18-month rotation for BLAST. However, beginning with the fall of 2017, we will be going back to an annual meeting and will be meeting each fall. If your state would like to host a future BLAST, contact Nicky Gacos or Terry Smith.

***Fort Sill and Bliss Arbitration Decisions Pending*** – Despite the proposed rules announced by DOD, states continue to arbitrate issues with DOD. At Fort Bliss in Texas and Fort Sill in Oklahoma, the Army is attempting to split out dining facility attendant services from the Randolph-Sheppard contracts. The result would be less income for the blind entrepreneurs and fewer opportunities for blind entrepreneurs in the future. The Army intended to award separate contracts to small business entities. The central issue is whether or not the Randolph-Sheppard priority applies to dining facility attendant services. Arbitration panels in Kentucky and Georgia have already ruled they do but the Army has chosen to totally ignore those decisions. There is also a case moving forward at Fort Riley in Kansas. That case is a little different. The Army is eliminating cooking from the contract and is attempting to remove the blind entrepreneur and award the contract to AbilityOne. If DOD is successful in implementing the proposed rules that we discussed earlier, these cases will be moot.

***Let's Arbitrate: U.S. Mint and Colorado to Resolve Major Disagreement*** – We have previously reported that the Colorado SLA has attempted to argue that the U.S. Mint in Denver should allow the SLA to manage and operate the gift shop at that facility under a Randolph-Sheppard permit. The Mint claims it is exempt from the priority. The Mint had argued that the Department of Education has no jurisdiction to convene an arbitration panel claiming it has a statutory exemption to the priority. However, the Department of Education disagreed and the parties have finally agreed to proceed with arbitration. This will be a very interesting case to watch and we applaud the SLA for taking on the challenge on behalf of its blind entrepreneurs.

***Let's Arbitrate Part 2: Minnesota Plans on Beating the VA Again*** – The VA’s blatant refusal to comply with the Randolph-Sheppard Act has been well-documented. The Minnesota SLA has made a good faith effort to establish a vending facility at a local VA. The VA has not cooperated and has refused to allow the establishment of a facility. So, the SLA has opted to file for arbitration. Two decades ago, the Minnesota SLA won an arbitration case and ultimately prevailed in federal court. The VA was forced to allow the establishment of a blind operated vending facility. But here we go again. Ignoring history, the VA has chosen litigation over cooperation. We are confident the SLA will prevail again and we applaud the SLA for taking on the fight. Florida is poised to be the next SLA to file for arbitration against the VA but it is exhausting all options before being forced into litigation. It is unfortunate that the VA has adopted a strategy of forcing states to file for arbitration. It is a deliberate strategy of fighting the battle one facility at a time. It knows most states will choose not to fight which is discouraging but we are working on a national strategy that would have a greater impact on the VA. More on that in a future issue of The Blitz.

***National Convention Report*** – Almost 2,500 blind persons showed up in Orlando for the 76th annual convention of the National Federation of the Blind in July. It was a very informative convention that featured presentations on many topics of interest to blind persons in this country. Approximately 120 individuals attended the meeting of the Blind Merchants which was the largest number ever. President Gacos had a terrific agenda planned and it was one of the best Merchant meetings ever. There was a lot of excitement in the room about the direction of NABM under President Gacos’ leadership and its efforts on behalf of blind entrepreneurs.

***NABM Elects New Board Members***: At its annual meeting held in conjunction with the convention of the National Federation of the Blind, a new board of directors was elected. The Executive Committee was re-elected. Meet the new NABM Board of Directors:

President – Nicky Gacos, New Jersey

1st Vice President – Harold Wilson, Virginia

2nd Vice President – Ed Birmingham, Illinois

Secretary – Sharon Treadway, Tennessee

Treasurer – Pam Schnurr, Indiana

Board Member – Deb Smith, Arizona

Board Member - Lewanda Miranda, Oregon

Board Member – Gene Fleeman, Missouri

Board Member - John Fritz, Wisconsin

Board Member - Melissa Smith, Tennessee

Board Member – Lynn Reynolds, New Jersey

Board Member – Joe Higdon, Indiana

Board Member – Charlie Allen, Kentucky

***A New Class of Emerging Leaders Set to Lead*** – On September 8-10, NABM conducted its second Randolph-Sheppard Emerging Leaders Training Program in Nashville. 11 new trainees completed the two-day program. When combined with the 2015 class, 24 blind entrepreneurs have completed NABM’s Emerging Leaders Training Program. This training is designed for blind entrepreneurs who are interested in improving their leadership skills and assuming more responsibility on the state or national levels. Perhaps, you want to serve on or be a better member of the Committee of Blind Vendors. Maybe you want to assume a leadership role in your state BEP. Maybe you want to get involved nationally and help NABM shape the future of the Randolph-Sheppard Program. Perhaps, you want to be a leader in your state NFB affiliate or NABM chapter. Regardless of your motivation, you may want to consider applying for the next class. Watch [www.blindmerchants.org](http://www.blindmerchants.org) for an announcement on when NABM will offer another training. In the meantime, meet the graduates of the 2016 class:

Rob Essenberg – Michigan

Roger Hall – Tennessee

Zach Thomas – Georgia

Joy Nelson – Colorado

Annette Lutz – Ohio

Michael Colbunn – Minnesota

Willie Black – Utah

Judy Schoenly - Pennsylvania

Cathie Buckner – Tennessee

Galdys Crespe – Colorado

Patricia Homan - Maryland

***NABM Makes Tennessee Meeting One of Best Ever*** – State bureaucracy can be a bear. The Tennessee BEP was having difficulty conducting its annual training conference because it couldn’t process contracts for hotels, speakers, etc. and couldn’t even buy the awards to be presented to the blind entrepreneurs. The situation was so bad it had to cancel the 2015 meeting. NABM offered a solution – sign one contract with NABM and we’d do everything. So, on September 10th, NABM conducted the 2016 TBE Statewide Managers Meeting and it was one of the state’s best ever. NABM was able to bring in high caliber national speakers and do a tradeshow that included 18 exhibitors. The meeting was an overwhelming success. As one TBE Committee of Blind Vendors member said, “You guys out did yourself with this one.” No, we just did what every state should be doing and that is providing high quality training to its blind entrepreneurs. Training is an important part of what NABM does through the NFBEI and we comment the Tennessee SLA for thinking outside the box and taking a creative approach to providing the training. If your state is interested in quality training and would consider outsourcing it, contact Terry Smith.

***NAMA Fly In*** – The National Automatic Merchandising Association held its second annual Day on the Hill in July. Over 250 professionals in the vending industry, including a couple of dozen blind entrepreneurs, participated. President Nicky Gacos serves on the NAMA Board of Directors and continues to foster the relationship between the two organizations. This is an important relationship because what affects the larger vending industry affects blind entrepreneurs as well. Equally as important, the vending industry is being exposed to successful blind entrepreneurs, which will help shape a positive image of blind people which helps all blind people. In addition to President Gacos, NABM First Vice-President Harold Wilson, Second Vice-President Ed Birmingham, and Board Members Melissa Smith and Lewanda Miranda attended the Fly-In as did Terry Smith who heads up the NFBEI. In all, approximately 2 dozen members of the Randolph-Sheppard community attended.

***Goodbye Dee Jones: It's Been Real*** - Dee Jones, the former Randolph-Sheppard Program Manager with the Rehabilitation Services Administration, left her position in September to return home to Vermont where she is now working as a state attorney. Dee loved working in the Randolph-Sheppard arena. She has a heart for the program and the knowledge and skills to be a real asset. Her decision to leave was more of a practical matter and had nothing to do with a lack of commitment to our field. We wish her absolutely the best. She will be missed but we wouldn’t be surprised if she doesn’t resurface someday.

***Read Those Permits Carefully*** – In the past, we have warned you to be cautious about signing new permits with GSA. GSA had developed a template for a standard permit that contained language we found to be objectionable. Specifically, we objected to requirements about healthy vending. There are healthy vending guidelines. We were concerned that guidelines were being turned into requirements. GSA has relented somewhat on this issue but we still urge signers to review them carefully before signing. If you have questions about any provisions in a proposed permit, feel free to contact Terry Smith for advice.

***A Sad Farewell to Two Fallen Friends*** – In the last couple of months, we lost two long-time blind entrepreneurs known around the country. Filo Tu of Hawaii passed away in July at the age of 64 after a courageous fight against cancer. He was a Randolph-Sheppard blind entrepreneur for almost 40 years and most recently led a team of 3 blind entrepreneurs who manage 10 newsstands at the Honolulu Airport. This vending facility is in a class by itself when it comes to Randolph-Sheppard retail operations and one of the largest, if not the largest, retail facility in the country. Filo was a strong advocate for the blind both on the state and national levels. When there was an issue and we needed help in Congress, we could call on Filo. He had great relationships with all members of Hawaii’s Congressional delegation. He had similar relationships with state legislators. Filo loved life and people and we will deeply miss him.

It is also sad to announce that Tom Spiliotis of Florida passed away this past week. Tom had recently been diagnosed with renal cancer and suffered a massive stroke when doctors were performing surgery to remove one of his kidneys. Tom was 65 and had been a Randolph-Sheppard blind entrepreneur since 1987. During his career, he managed multiple vending facilities but most recently serviced the vending at the I-4 rest area. Tom was actually licensed as an attorney having graduated from the University of Colorado School of Law. He served as the Chairman of the Florida Committee of Blind Vendors for the past 20 years and was frequently called upon by blind entrepreneurs from around the country for advice and counsel. Tom will be missed.

Both Filo and Tom are survived by their wives. We extend our sincere condolences to both families.

***Hadley New Business Venture Competition*** – At the 2016 BLAST, the Hadley Institute for the Blind and Visually Impaired conducted a New Business Venture Competition. Dozens of blind entrepreneurs or would-be entrepreneurs applied for grants of up to $12,500 to help with their businesses. Three winners were announced at the luncheon. It was an exciting project. To view a video about the program, click on the following link: <https://www.youtube.com/watch?v=SrZKg2C21ik>

***On the Road Again*** – A lot of hours were spent the last 3 months on airplanes and in airports. Terry Smith was in Delaware, Arizona, Oklahoma, Mississippi, and Tennessee presenting at annual training conferences. He made a second trip to Oklahoma to testify as an expert witness in the State of Oklahoma versus the Army Fort Sill arbitration case, Sharon Treadway represented the NFBEI at the annual training conference in New Hampshire. NABM President Nicky Gacos attended the Tennessee Statewide Managers Meeting as well as the Emerging Leaders Training in Nashville. Nicky also attended the NAMA Board of Directors meeting in D.C. and participated in NAMA meetings with federal officials including the Department of Transportation and Center for Disease Control. He also met with the National Governors Association. Terry, Nicky, and several NABM board members attended the NAMA Fly-In. And of course there was the NFB National Convention and NABM meeting in Orlando. October and November are going to be busy months as well.

***Meet the Blind Month***- October is Meet the Blind Month. Many NFB affiliates will be holding events promoting blindness. NABM encourages you to participate in these activities. We’d also encourage you to do something special in your business to promote blindness. As a Randolph-Sheppard entrepreneur, you are in perfect position to help educate people about blindness

***#HowEyesSeeIt*** – Many of you are familiar with the Foundation Fighting Blindness #HowEyesSeeIt campaign. The Foundation is urging sighted people to video themselves doing routine tasks blindfolded to demonstrate the devastation of blindness. The goal is to raise dollars for research to prevent blindness. Although the goal is commendable, the method is deplorable. It presents a negative image of blindness and suggests blind people are essentially helpless. Randolph-Sheppard entrepreneurs prove everyday that blindness is not devastating and they can live independent lives. We encourage you to join NABM and the National Federation of the Blind in calling on the Foundation to terminate the campaign.

***Dates to Remember***

* October 18-20, 2016 – National Association of Convenience Stores, Atlanta, Georgia
* November 11, 2016 – National Council of State Agencies for the Blind Sponsored Randolph-Sheppard Training, San Diego, California
* November 9-10, 2016 – Coffee, Tea, and Water Show, Nashville, Tennessee
* January 30-February 3, 2017 – NFB Washington Seminar
* April 5-7, 2017 – National Council of State Agencies for the Blind Spring Conference, Bethesda, MD
* April 19-21, 2017 – NAMA One Show, Las Vegas, Nevada
* July 24-25, 2017 – NAMA Fly-In, Washington, D.C.
* September 12-15, 2017 – BLAST, Nashville, Tennessee

***You Can Still Hel*p** – Do you like what the NFBEI is doing to advocate for the program on a national level and to assist individual state programs and blind entrepreneurs? Do you enjoy reading The Blitz and being kept informed about what is going on in the Randolph-Sheppard community? If so, we can use your financial support. Over half of our support comes from the NFBEI subscriptions but we count on donations to make up the rest. If you would like to contribute to the cause, we would welcome your donation. You can donate by sending a check to:

National Association of Blind Merchants

7450 Chapman Highway, #319

Knoxville, TN 37920

Make the check payable to NABM and write “NFBEI” in the memo portion of the check. Your support is greatly appreciated.

You can also donate by going to our website at [www.blindmerchants.org](http://www.blindmerchants.org) and we have a new way you can contribute. We can do bank drafts if you want to sign up for monthly giving. Contact Terry Smith if you are interested in setting up bank draft donations

If your state is one of the 14 that doesn’t subscribe to the services of the NFBEI, we’d welcome your involvement. Terry Smith would be happy to discuss the services with you.

***Share Your News with Everyone***- Help us keep everyone informed about what is happening around the country. Let us hear from you. Tell us what is going on in your state. What is happening in one state affects what is going on in another, and the NFBEI is the vehicle to keep everyone updated on what is going on out there.

***GET THE BLITZ-READ THE BLITZ-SHARE THE BLITZ***

**PLEASE FEEL FREE TO SHARE THE BLITZ WITH OTHERS AND DISTRIBUTE ON YOUR LISTSERVS. WE WANT ALL BLIND ENTREPRENEURS, BEP ADMINISTRATORS, and OTHER STAKEHOLDERS TO KNOW WHAT THE NFBEI IS DOING**

*The National Federation of the Blind knows that blindness is not the characteristic that defines you or your future. Every day we raise the expectations of blind people, because low expectations create obstacles between blind people and our dreams. You can live the life you want; blindness is not what holds you back.*