Powers and Duties of the Michigan Commission for the blind:

According to Public Act 260 of 1978

Introduction

This document is prepared to provide a quick reference guide to anyone interested in the powers and duties of the Michigan Commission for the blind. All excerpts are directly from the text of the law as found on the Michigan Commission for the Blind web page. Some changes may have occurred during spell checking, though reviews of this document did not appear to have any substantive differences. The word “shall” is directive and in the context of a power or duty is compulsory. The word “may” is permissive and in the context of a power or duty allows the Commission Board to determine whether or not to perform the power or duty. There are a few occurrences of the word shall and may which are part of a sentence and are not either permissive or compulsory and those instances are omitted for simplicity sake.

Purpose:

The legislature mandated the following 6 purposes of the law as follows (numbers added):

Public Act 260 Blind and Visually Handicapped Persons Act 260 of 1978

1. AN ACT to revise and codify the laws relating to blind persons and visually handicapped;
2. to create a commission;
3. to prescribe its powers and duties and those of other state agencies relative to blind persons;
4. to provide services, education, training, and assistance to blind persons;
5. to regulate concessions operated by blind persons;
6. To transfer powers, duties functions, and appropriations; and to repeal certain acts and parts of Acts.

Notice the word “regulate” with regard to number 5, vending facilities or concessions. Regulate is a strong word in administrative law terms.

393.351 Definitions

No shalls in this section, however every definition could be considered a shall since each definition limits how the Commission will determine such things as eligibility and scope of services.

Sec. 1. As used in this act (each item is enumerated by a letter):

(a) "Blind person" means an individual who has a visual acuity of 20/200 or less

In the better eye with correction, or has a limitation of his or her field of vision

such that the widest diameter of the visual field subtends an angular distance not

greater than 20 degrees, as determined by the commission.

(b) "Commission" means the commission for the blind.

(c) "Concession" means equipment or location which is being used, or may be used

to sell retail confections, tobaccos, papers, periodicals, and other like merchandise,

coffee, milk, soft drinks, wrapped ice cream, wrapped sandwiches, wrapped baked goods,

packaged salads and other similar food items. Concession includes the operation of

"quickie lunch counters" for the dispensing of prepared foods in state buildings

and vending facilities.

(d) "Department" means the department of labor.

(e) "Director" means the director of the commission.

(f) "Vending facility" means an automatic vending machine, cafeteria, snack bar,

cart service, shelter, counter, or any other appropriate auxiliary equipment as the

commission may prescribe by rule as being necessary for the sale of articles or services

described in this act and which may be operated by a blind licensee.

Note: Item “F” clearly states that the Commission may define services through rule –making to clarify services and facilities. This includes regulations with regard to catering and coffee services.

Shalls:

This document will list, in order of occurrence in the act, those things mandated by law that the Commission must do as indicated by use of the word “shall.” (Each major section is indicated. Numbering is added).

393.352 Commission for blind; creation; appointment of members; chairperson; appointment

and evaluation of director of commission; terms, compensation, and expenses of members;

officers; quorum.

1. Three of the members shall be blind persons.
2. . One of the members shall be designated by the governor to serve as the chairperson.
3. The commission shall recommend to the director of the department a person to serve as director of the commission
4. from a list of eligible persons certified and submitted by the department of civil service who shall be classified as a civil service employee,
5. Should that person be rejected, the procedure shall be repeated until a director is appointed.
6. The commission shall evaluate the performance of the director annually and submit its evaluation and recommendations to the director of the department.
7. The members shall serve for terms of 3 years except of those members first appointed, 2 shall serve for terms of 3 years, 2 for 2 years, and 1 shall serve for 1 year. \*(see footnote)
8. A vacancy shall be filled in the same manner as the original appointment for the

Balance of the unexpired term.

1. The compensation and the schedule of reimbursement of expenses shall be established

annually by the legislature.

1. The members shall elect their own officers as necessary.

393.353 Services for determining cause and prevention of blindness; examination to

certify statutory blindness; treatment; cost; contract to provide eye examinations.

1. The commission shall establish and maintain services as needed for determining the cause and prevention of blindness.
2. When a blind or partially blind person can be benefited by treatment, the commission shall arrange for the necessary treatment, with the consent of the person, by an ophthalmologist or physician skilled in the diseases of the eye, a licensed optometrist, or both.
3. An examination shall be provided without charge to the applicant for services to

the blind.

1. Unless other funds are available, the examination, and treatment if provided,

Shall be paid for by the commission.

393.354 Services to assist visually handicapped persons; fee; duties of commission

generally.

Sec. 4. (1) The commission shall maintain a program of services to assist visually

Handicapped persons to overcome vocational handicaps and to obtain the maximum degree

of self-support and self-care. Services provided for under this section may be furnished

to clients from other agencies of this or other states for a fee which shall not

be less than the actual costs of the services.

(2) The commission shall:

(a) Furnish diagnostic evaluation to determine the nature and scope of services to

be provided.

(b) Provide physical restoration to eliminate or minimize the effects of the handicap.

(c) Provide for special education or training in the professions, businesses, or

trades under a vocational rehabilitation plan.

(d) Provide services to blind persons in accordance with the rehabilitation act of

1973, 29 U.S.C. 701 to 794.

(e) Establish, construct, or maintain rehabilitation centers, training centers, or

workshops to teach visually handicapped persons to prepare for and maintain trades

or occupations when the training is feasible and will contribute to the efficiency

or support of the visually handicapped persons.

(f) Provide teacher-counselor services and teaching of subjects which will assist

visually handicapped persons in the ease and enjoyment of daily living.

(g) Place visually handicapped persons in jobs or business enterprises in accordance

with the abilities and interests of the applicant.

(h) Teach visually handicapped persons trades or occupations which may be followed

in their homes and to assist them in whatever manner may seem advisable in disposing

of the products of their home industries.

(i) Aid individual visually handicapped persons or groups of visually handicapped

persons to engage in gainful occupations by furnishing materials, equipment, goods

or services to them, by providing financial assistance as necessary to encourage

and equip them to reach an objective established with them by the commission.

(j) Provide rehabilitation services for blind persons who are senior citizens so

that they may reside within a community.

(k) Provide other rehabilitative goods and services as appropriate to each individual

circumstance.

393.355 Additional duties of commission.

Sec. 5. The commission shall do all of the following:

(a) Cooperate with other departments, agencies, and institutions, both public and

private, in providing for the rehabilitation of blind persons, in studying problems

relative to blind persons, and in establishing, developing, and providing necessary

programs, facilities and services.

(b) Enter into reciprocal arrangements with other states to provide for the rehabilitation

of residents of the states concerned.

(c) Conduct research and compile statistics relating to the rehabilitation of blind

persons.

(d) Provide social adjustment, guidance, counsel, mobility training, and employment

adjustment of blind persons in their home communities.

(e) Provide surveys of employment opportunities for blind persons and the placement

of blind persons in employment not otherwise provided for.

(f) Regulate concessions reserved for operation by blind persons pursuant to this

act.

(g) Promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended,

being sections 24.201 to 24.315 of the Michigan Compiled Laws, for the implementation

and administration of this act.

393.356 Employment and duties of educational consultants; informing commission of

schools with visually handicapped students; liaison and program coordination.

1. Educational consultants shall assist public and private school teachers by providing

methods and materials for teaching visually handicapped students.

1. The superintendent of public instruction shall inform the commission of the schools in which visually handicapped students are enrolled.
2. The director or a person designated by the director shall be the liaison between

the commission, the schools for the blind, and the superintendent of public instruction,

4. The director or a person designated by the director shall be the liaison between

the commission, the schools for the blind, and the superintendent of public instruction,

and shall coordinate all programs affecting blind students.

393.357 Contributions or gifts; acceptance; expenditure; stipulation of donor.

Contributions and gifts shall be expended

as provided by law, in the same manner as moneys appropriated for implementing the

purposes of this act.

393.359 Concessions in state buildings or on state property; operation by blind persons;

1. A concession in a building or on property owned or occupied by this state

shall be operated by a blind person, regardless of race, creed, color, sex, marital

status, or religious preference, except in cases provided for in section 10.

1. The building division of the department of management and budget shall submit plans relative to concessions in state buildings or on state property to the commission, which 3. Shall have the final authority relative to the location of concessions.

393.360 Act inapplicable to certain concessions; sighted person operating concession

under contract or lease, or operating concession not applied for by blind person.

. (1) This act shall not apply to a concession operated in connection with

the state fair, with the use of state fairgrounds, with a state educational institution,

state penal institution, military establishment, armory, or state park.

(2) A sighted person operating a concession under contract or lease at the time this

act becomes effective shall not be required to surrender the rights before the contract

or lease expires.

393.361 Concessions; qualifications of applicant; limitation on number.

1. The qualifications of an applicant to operate a concession shall be determined

according to qualifications established by the commission.

1. A blind person shall not operate more than 1 concession.

393.362 Contract or lease of veteran with service-connected disability not affected.

This act shall not be construed to affect the contract or lease of world

war I, world war II, Spanish-American war, Korean conflict, or Vietnam era conflict

veteran having a service-connected disability recognized by the veterans' administration

of the federal government, or a renewal of that contract or lease.

393.363 Implementation of Randolph-Sheppard vending stand act.

The commission shall be the state agency for implementing the Randolph-Sheppard

vending stand act, 20 U.S.C. 107 to 107f.

393.364 Identification card; issuance; contents

(1) Upon request, the department of state shall issue to legally blind persons,

as defined by the standards of the commission, an identification card attesting to

the fact that the person to whom the card is issued is legally blind.

(2) The identification card shall bear the name, signature, birth date, address,

and photograph of the person to whom issued.

393.365 Conducting business at public meeting; notice; availability of writings to

public

(1) The business which the commission or any committee appointed under this

act may perform shall be conducted at a public meeting of the commission or committee

held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261

to 15,275 of the Michigan Compiled Laws.

1. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.
2. A writing prepared, owned, used, in the possession of, or retained by the commission

in the performance of an official function shall be made available to the public

in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231

to 15.246 of the Michigan Compiled Laws.

393.368 Effective date.

This act shall take effect October 1, 1978.

Mays

In the language of regulatory matters, the word “may” is permissive. In other words, the Commission is not required to carry out the function or service unless it so chooses. The same format will be employed for the mays as the shalls in that each section with at least 1 may will be listed and then the item will be quoted. If there is more than 1 may in a section, they will be numbered in order of occurrence.

393.352 Commission for blind; creation; appointment of members; chairperson; appointment

and evaluation of director of commission; terms, compensation, and expenses of members;

officers; quorum.

1. (when the commission board recommends a Commission Director) the director of the department may appoint or reject that person

393.353 Services for determining cause and prevention of blindness; examination to

certify statutory blindness; treatment; cost; contract to provide eye examinations.

1. The examination to certify statutory blindness

may be performed by either an ophthalmologist or physician skilled in the diseases

of the eye; or a licensed optometrist, whichever the person shall select.

(2) The commission may contract with the department of social services or the department

of public health to provide eye examinations for applicants for aid to the blind.

393.354 Services to assist visually handicapped persons; fee; duties of commission

generally.

1. Services provided for under this section may be furnished

to clients from other agencies of this or other states for a fee which shall not

be less than the actual costs of the services.

1. The commission may furnish living maintenance during the period of the education or training within or without the state.

393.356 Employment and duties of educational consultants; informing commission of

schools with visually handicapped students; liaison and program coordination.

Sec. 6. (1) The commission may employ qualified educational consultants to assist

public or private school teachers responsible for teaching visually handicapped students.

393.357 Contributions or gifts; acceptance; expenditure; stipulation of donor.

1. . The commission may accept contributions or gifts in cash or otherwise from

persons, associations, or corporations.

1. The donor of the gift may stipulate the manner in which the

gift shall be expended within the guidelines of this act.

393.358 Powers of commission pursuant to state-federal agreements.

1. The commission, pursuant to state-federal agreements, may cooperate with

the federal government in carrying out the purposes of a federal statute or regulation,

not in conflict with state law, which pertains to rehabilitation of blind persons;

1. may adopt methods of administration, not in conflict with state law, which are necessary for the proper and efficient operation of the agreements or plans for rehabilitation of blind persons; and
2. may comply with conditions, not in conflict with state law,

which are necessary to secure the full benefits of federal statute.

393.360 Act inapplicable to certain concessions; sighted person operating concession

(1) A sighted person operating a concession under contract or lease at the time this

act becomes effective shall not be required to surrender the rights before the contract

or lease expires.

(2) A sighted person operating a concession which has not been applied for by a blind

person may be permitted to continue in charge until the concession is applied for

and a qualified blind person is chosen to operate the concession.

\*More than 1 shall is in item 7, since only the first shall is relevant since the initial appointments have already been made.