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For filing under "Vocational
Rehabilitation"

Mr. Aruda



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

November 22, 1974

OFFICE OF THE
GENERAL COUNSEL

Honorable Stanley Ebner
General Counsel
Office of Management and Budget
Room 262
Old Executive Office Building
Washington, D. C. 20503

Dear Stan:

Re: Existing Statutory Authority to Perform Functions
Mandated by H.R. 14225

As you requested during our meeting on November 19, I am attaching a Table (a) describing the provisions of H.R. 14225, (b) indicating whether we believe there is authority under existing law to perform the function described by each provision in question, and (c) noting HEW's proposed position on each provision. While this column is stated in terms of whether HEW wishes to implement, it might be more accurate to characterize in terms of whether HEW objects to implementing. (If the question were phrased this way, the "yes" answers would become "no" and vice versa.)

Sincerely,

A handwritten signature in dark ink, appearing to be "John B. Rhinelander", is written over a horizontal line.

John B. Rhinelander

Attachment



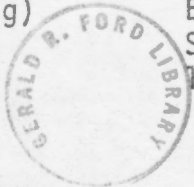
H. R. 14225

Authority Under
Present Law?

Does HEW Wish to
Implement Under
Present Law?

Title I--
Rehabilitation
Act Amendments

Sec. 101	Requires the transfer of RSA to the Office of the Secretary, requires confirmation of RSA Commissioner, and restricts the delegation of functions of the Commissioner.	Transfer of RSA - Yes Confirmation - No Restricted Delegation - Yes)))) No
Sec. 102 through Sec. 110	Extends the authorization of appropriations in the Rehabilitation Act for one year.	No	N/A
Sec. 111(a)	Clarifies the definition of "handicapped individual" for the purposes of titles IV and V of the Act to include all handicapped persons, not merely recipients under the Act.	No	N/A
Sec. 111(b)	Requires affirmative action by State VR agency with regard to hiring and advancing handicapped individuals.	No	N/A
Sec. 111(c)-(e)	Requires records to be maintained concerning ineligibility determinations and annual review thereof by the State agency.	Yes	Yes
Sec. 111(f)	Sets \$11,860,000 as the trigger level for client assistance projects rather than the FY 73 level.	No (but may have no impact on actual project funding)	N/A
Sec. 111(g)	Extends the due date for the Comprehensive Service Needs Special Study until June 30, 1975.	No	N/A



H. R. 14225Authority Under
Present Law?Does HEW Wish to
Implement Under
Present Law?Title I--
Rehabilitation
Act Amendments

Sec. 111(h)	Authorizes demonstrations as well as studies and analyses in section 202 research activities related to architectural and engineering design.	No	N/A
Sec. 111(i)	Adds demonstration projects relating to access by the handicapped to recreational facilities to the Special Projects authority.	No	N/A
Sec. 111(j)	Technical amendment.	Yes	Yes
Sec. 111(k)	Requires technical assistance provided by the Secretary to State VR agencies for removal of architectural and transportation barriers to have the concurrence of the Architectural and Transportation Barriers Compliance Board.	Yes	No
Sec. 111(l)	Requires any construction grant, or grant involving construction, funded under the Act to be approved by the Architectural and Transportation Barriers Compliance Board,	Yes	No
Sec. 111(m)	Prohibits further delegations of functions of the Office of the Handicapped to any officer with operational responsibilities for any program benefitting the handicapped.	Yes	No
Sec. 111(n)	Adds Department of Defense to Architectural and Transportation Barriers Compliance Board and makes the Secretary of HEW the Chairman of the Board.	No	N/A



H. R. 14225Authority Under
Present Law?Does HEW Wish to
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Present Law?Title I--
Rehabilitation
Act Amendments

Sec. 111(o)	Clarifies authority of the Board to carry out its functions by grant or contract and strengthens the enforcement capability of the Board by making its orders final and authorizing it to terminate funding of projects.	No	N/A
Sec. 111(p)	Authorizes Board to appoint a Director and such other clerical and professional staff as may be necessary to carry out its functions.	No	N/A
Sec. 111(q)	Extends reporting dates for the Architectural and Transportation Barriers Compliance Board from January 1, 1975, to September 30, 1975,	No	N/A

Title II--
Randolph-Sheppard
Act Amendments
of 1974

Sec. 201	Statement of adverse Congressional findings to effect that blind vending stand program authorized by the Act of 1936 has neither developed nor been sustained according to Congressional intent.	N/A	N/A
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H. R. 14225

Authority Under Present Law?

Does HEW Wish to Implement Under Present Law?

Title II--
Randolph-Sheppard
Act Amendments
of 1974

Sec. 202--
Vending
Facility
Operations

Amends sec. 1 of the Act (a) to give licensed blind vendors a priority in operating vending facilities on Federal property and (b) to assure this priority and the location of facilities on Federal property, where feasible, requires the Secretary of HEW, through the RSA Commissioner and after consultation with the Administrator of GSA and other heads of Federal departments, agencies, or instrumentalities to prescribe the requisite regulations and (c) requires the Secretary of HEW to make a binding determination on all requests for limitations on the placement or operation of facilities on Federal property on the basis that such placement or operation adversely affects the interests of the United States.

- (a) - Yes
- (b) - Yes
- (c) - No

) No
N/A

Sec. 203--
Federal and
State respon-
sibilities

(a)(1) Insures that RSA shall be principal agency for implementing this Act and requires that, within 180 days after its enactment, the Commissioner of RSA issue regulations to insure uniform implementation by all State agencies (including accounting procedures policy for the selection and establishment of new facilities, distribution of income to vendors, use and control of set-aside funds).

Yes

RSA as principal
agency - No
Remaining Provi-
sions - Yes



H.R. 14225Authority Under
Present Law?Does HEW Wish to
Implement Under
Present Law?Title II--
Randolph-Sheppard
Act Amendments
of 1974Sec. 203--
Federal and
State respon-
sibilities
(Cont'd)

(2) Requires that RSA Commissioner make annual surveys of concession vending opportunities for blind persons on Federal property and other properties within the United States (especially properties under the control of DOD, USPS, and GSA).

Yes

Use of RSA Commis-
sioner - No
Remaining Provi-
sions - Yes

(3) Makes technical changes in Randolph-Sheppard Act to remove archaic terminology and substitute terms that reflect all types and means of merchandise and merchandising.

Yes

Yes

(4) Requires periodic evaluations of Randolph-Sheppard Program, including upward mobility and training for blind vendors.

Yes

Yes

(5) Requires that, after January 1, 1975, no department, agency, or instrumentality shall acquire by ownership, rent, lease or otherwise occupy any building unless, after consultation with the head of same and the State licensing agency, it is determined by the Secretary of HEW that (A) such building includes a satisfactory site (or sites) for a blind vending facility or (B) if such facility is to be constructed, altered, or renovated the design for any construction, alteration or renovation include a satisfactory site (or sites) for a blind vending facility.

No

N/A



H.R. 14225

Authority Under Present Law?

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Title II--
Randolph-Sheppard
Act Amendments
of 1974

Sec. 203--
Federal and
State respon-
sibilities
(Cont'd)

(6) Requirement 5 shall not apply when the Secretary of HEW and the State agency determine that (A) the number of people using the property is or will be insufficient to support a vending facility or (B) to any privately owned building any part of which is leased by any department, agency, or instrumentality and in which, prior to such lease, the lessor or his tenants had in operation a restaurant or food facility in a part of the building not covered by the lease and the operation of a blind vending facility would be in proximate and substantial direct competition with such restaurant or food facility.

N/A

N/A

(7) For the purposes of sections 5 and 6 (above), 'satisfactory site' means an area determined by the Secretary of HEW to have sufficient space, electrical and plumbing outlets and such other facilities as the Secretary may by regulation prescribe for the location and operation of a vending facility by a blind person.

N/A

N/A

Sec. 204--
Duties of State
licensing
agencies

Authorizes State licensing agencies to establish retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time out of set-aside funds.

No

N/A



H.R. 14225

Title II--
Randolph-Sheppard
Act Amendments
of 1974

		<u>Authority Under Present Law?</u>	<u>Does HEW Wish to Implement Under Present Law?</u>
Sec. 205 - Sec. 206	Requires the Secretary of HEW to submit disputes between blind licensees and State agencies and between State agencies and Federal agencies to binding arbitration.	Arguably Yes	No
	Requires 100 percent of income from vending machines on Federal property in competition with a blind vending facility and 50 percent of such income from machines not in direct competition to be assigned to the benefit of blind licensees, with a number of exceptions for DOD, VA, and facilities in which 50 percent of the hours worked are not normal working hours.	No - for vending machines not in competition with blind vending facilities	N/A
	Priority for the operation of cafeterias on Federal property to qualified blind licensees.	Yes - for vending machines in competition	Yes - with minor exceptions
Sec. 207	Sets forth definitions for the Act.	No	N/A
Sec. 208	Requires HEW to assign 10 additional full-time personnel to the Office for the Blind and Visually Handicapped in RSA.	Definition of "blind person" - No All other definitions - Yes	Yes
Sec. 209	Imposes additional staff responsibilities on State licensing agencies.	Yes - except for authorization of additional supergrade position	No
		Yes	Yes



H.R. 14225Authority Under
Present Law?Does HEW Wish to
Implement Under
Present Law?Title II--
Randolph-Sheppard
Act Amendments
of 1974

Sec. 210

Requires Secretary to promulgate national standards for the use of funds set aside for benefit of blind licensees.

Yes

Yes

Requires the Secretary to study the feasibility of establishing a nationally administered retirement, pension, and health insurance system for blind licensees.

Yes

No

Requires Secretary to evaluate method of assigning vending machine income to blind licensees.

Yes

Yes - except for delay in submission of required report.

Sec. 211

Authorizes Comptroller General to audit fund activities receiving income from vending machines on Federal property.

No

N/A

Title III--
White House
Conference
on Handicapped
Individuals

Authorizes the President to convene a White House Conference on Handicapped Individuals within two years of enactment of the bill.

No

N/A

