

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
TENNESSEE BUSINESS ENTERPRISES**

**CHAPTER 1240-6-2
LICENSE**

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1240-6-2-.01 ISSUANCE.

The Agency shall issue licenses to blind persons who are in need of employment and who are determined to be:

- (1) A citizen of the United States
- (2) Legally blind as defined in 34 C.F.R. § 395.1(c)
- (3) At least eighteen (18) years of age and
- (4) Qualified to manage a vending facility as evidenced by having successfully completed entry level training as well as successfully completing an on-the-job training.

Authority: T.C.A. §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, 71-1-105(12), 71-4-604, 71-4-604(c); 34 C.F.R. § 395 et seq., 34 C.F.R. § 395.1(c), 34 C.F.R. § 395.4, and 34 C.F.R. § 395.7(a). **Administrative History:** Original rule filed August 30, 1978; effective November 12, 1978. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed May 15, 1984, effective August 14, 1984. Amendment filed March 10, 1989; effective April 24, 1989. Repeal and new rule filed April 8, 2005; effective June 22, 2005.

1240-6-2-.02 DISPLAYING OF LICENSE.

- (1) The manager shall prominently display in his/her vending facility the license or a copy of the license.

Authority: T.C.A. §§ 4-5-201 et seq., 49-11-601, 71-1-104, 71-1-105(12), and 71-4-604 (c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.4. **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed June 9, 1981; effective August 18, 1981. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed March 10, 1989; effective April 24, 1989. Amendment filed April 27, 1998; effective August 28, 1998. Repeal and new rule filed April 8, 2005; effective June 22, 2005.

1240-6-2-.03 TERMINATION OF LICENSE.

- (1) The Agency shall issue licenses for an indefinite period, but subject to termination if, after affording the manager an opportunity for a full evidentiary hearing, the Agency finds that the vending facility is not being operated in accordance with:
 - (a) the rules and regulations governing the program;
 - (b) the terms and conditions of the permit;
 - (c) the duties and responsibilities of the IOFA;

(Rule 1240-6-2-.03 continued)

- (d) policies and procedures as specified in the TBE Operations Manual;
 - (e) state law, the violation of which is, or reasonably may, result in financial or physical harm to the customers of the facility or other persons, the Department or the manager; or
 - (f) regulations of other agencies of the State of Tennessee which have regulatory authority directly related to the operation of a vending facility.
- (2) The Agency will give thirty (30) days notice in advance of terminating a manager's license, and such advance notice shall be given only after the expiration of a thirty (30) day probationary period, except as provided in chapters 1240-6-9-.03(3) and 1240-6-3-.01.
- (3) The Agency must revoke the manager's license if:
- (a) The manager resigns from TBE;
 - (b) The manager has an extended illness with a medically documented diagnosis of the manager's incapacity to operate a facility; provided that the Agency has made available to the manager transfer eligibility under chapter 1240-6-5-.03(3), and that eligibility has expired;
 - (c) The manager loses his/her certification(s) and fails to reapply within the allotted time to attend and subsequently complete the next entry-level training class pursuant to chapter 1240-6-4-.02(4); or
 - (d) The manager fails to meet the definition of blindness as set forth at chapter 1240-6-1-.02(4) and 34 C.F.R. § 395.1(c). At its discretion, the Agency may require the manager to undergo an ophthalmologic examination to verify blindness. If an examination is required, the Agency will select the doctor and will pay for the office visit.

Authority: T.C.A. §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, 71-1-105(12), 71-4-603, and 71-4-604(c); 34 C.F.R. § 395 et seq., 34 C.F.R. § 395.1, 34 C.F.R. § 395.4, and 34 C.F.R. § 395.7. **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed November 8, 1979; effective January 29, 1980. Amendment filed June 9, 1981; effective August 18, 1981. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed December 6, 1983; effective January 5, 1984. Amendment filed December 11, 1986; effective January 25, 1987. Amendment filed March 10, 1989; effective April 24, 1989. Amendment filed April 27, 1998; effective August 28, 1998. Repeal and new rule filed April 8, 2005; effective June 22, 2005.

1240-6-2-.04 INSTRUMENT OF FACILITY AGREEMENT.

- (1) On the first day of business, the TBE Consultant/Specialist and the manager shall execute a document known as the "Instrument of Facility Assignment," which shall be developed by the Agency with the active participation of the Committee. The IOFA designates the assignment as temporary or permanent and clearly defines the responsibilities of the Agency and those of the manager to assure the effective and efficient operation of the facility to which the manager has been assigned.
- (2) The following three documents shall be attached to and made a part of the IOFA:
- (a) Occupancy Permit Agreement (if available);
 - (b) Equipment Inventory Record; and
 - (c) The completed Merchandise Inventory Record.

(Rule 1240-6-2-.03 continued)

Authority: T.C.A. §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, 71-1-105 (12) and (14), 71-4-603, 71-4-604, and 71-4-604(c); 34 C.F.R. § 395 et seq., 34 C.F.R. § 395.7(a), (c); 34 C.F.R. § 395.16. **Administrative History:** Original rule filed May 25, 1983; effective June 24, 1983. Amendment filed March 10, 1989; effective June 24, 1989. Repeal filed April 27, 1998, effective August 28, 1998. Repeal and new rule filed April 8, 2005; effective June 22, 2005.

1240-6-2-.05 REPEALED.

Authority: TCA §§14-14-404(c); 34 CFR 395.7(b). **Administrative History:** Original rule filed May 25, 1983; effective June 24, 1983. Repeal filed April 13, 1984; effective May 13, 1984.