

§4592. Unlawful public accommodations

This section does not require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of that entity when the individual poses a direct threat to the health or safety of others. For the purposes of this section, the term "direct threat" means a significant risk to the health or safety of others that can not be eliminated by a modification of policies, practices or procedures or by the provision of auxiliary aids or services. [PL 1995, c. 511, §2 (NEW); PL 1995, c. 511, §3 (AFF).]

It is unlawful public accommodations discrimination, in violation of this Act: [PL 1991, c. 99, §21 (AMD).]

1. Denial of public accommodations. For any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation to directly or indirectly refuse, discriminate against or in any manner withhold from or deny the full and equal enjoyment to any person, on account of race or color, sex, sexual orientation or gender identity, age, physical or mental disability, religion, ancestry or national origin, any of the accommodations, advantages, facilities, goods, services or privileges of public accommodation, or in any manner discriminate against any person in the price, terms or conditions upon which access to accommodations, advantages, facilities, goods, services and privileges may depend.

For purposes of this subsection, unlawful discrimination also includes, but is not limited to:

A. The imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages or accommodations, unless the criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages or accommodations being offered; [PL 1995, c. 393, §22 (NEW).]

B. A failure to make reasonable modifications in policies, practices or procedures, when modifications are necessary to afford the goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities, unless, in the case of a private entity, the private entity can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages or accommodations; [PL 1995, c. 393, §22 (NEW).]

C. A failure to take steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless, in the case of a private entity, the private entity can demonstrate that taking those steps would fundamentally alter the nature of the good, service, facility, privilege, advantage or accommodation being offered or would result in an undue burden; and [PL 2023, c. 489, §7 (AMD).]

D. A private entity's failure to remove architectural barriers and communication barriers that are structural in nature in existing facilities and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals, not including barriers that can be removed only through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift, where the removal is readily achievable.

When the entity can demonstrate that the removal of a barrier under this paragraph is not readily achievable, a failure to make the goods, services, facilities, privileges, advantages or accommodations available through alternative methods if alternative methods are readily achievable; [PL 2023, c. 489, §8 (AMD).]

E. [PL 2023, c. 489, §9 (RP).]

[PL 2023, c. 489, §§7-9 (AMD).]

2. Communication, notice or advertisement. For any person to directly or indirectly publish, display or communicate any notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any place of public accommodation are refused, withheld from or denied to any person on account of race or color, sex, sexual orientation or gender identity, age, physical or mental disability, religion, ancestry or national origin, or that the patronage or custom of any person belonging to or purporting to be of any particular race or color, sex, sexual orientation or gender identity, age, physical or mental disability, religion, ancestry or national origin is unwelcome, objectionable or not acceptable, desired or solicited, or that the clientele is restricted to any particular race or color, sex, sexual orientation or gender identity, age, physical or mental disability, religion, ancestry or national origin. The production of any communication, notice or advertisement purporting to relate to any place of accommodation is presumptive evidence in any action that the action was authorized by its owner, manager or proprietor;

[PL 2021, c. 366, §14 (AMD).]

3. Denial of lodging; children, exception. For any person who is the owner, lessee, proprietor, manager, superintendent, agent or employee of any public accommodation for lodging to directly or indirectly refuse or withhold from or deny to any person that lodging on the grounds that the person is accompanied by a child or children who will occupy the unit, unless the total number of persons seeking to occupy the unit exceeds the number permitted by local ordinances or reasonable standards relating to health, safety or sanitation.

This subsection does not apply to the owner of a lodging place:

A. That serves breakfast; [PL 1989, c. 301 (NEW).]

B. That contains no more than 5 rooms available to be let to lodgers; and [PL 1995, c. 393, §23 (AMD).]

C. In which the owner resides on the premises; [PL 1995, c. 393, §23 (AMD).]

[PL 1995, c. 393, §23 (AMD).]

4. Participation. For a covered entity:

A. To subject an individual or a class of individuals, on the basis of a disability or disabilities of the individual or class, directly or through contractual, licensing or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages or accommodations of that entity; [PL 1995, c. 393, §24 (NEW).]

B. To afford an individual or a class of individuals, on the basis of a disability or disabilities of the individual or class, directly or through contractual, licensing or other arrangements, with the opportunity to participate in or benefit from goods or a service, facility, privilege, advantage or accommodation in a manner that is not equal to that afforded to other individuals; and [PL 2023, c. 405, Pt. A, §12 (AMD).]

C. To provide an individual or a class of individuals, on the basis of a disability or disabilities of the individual or class, directly or through contractual, licensing or other arrangements, with goods or a service, facility, privilege, advantage or accommodation that is different or separate from that provided to other individuals, unless this action is necessary to provide the individual or class of individuals with goods or a service, facility, privilege, advantage or accommodation or other opportunity that is as effective as that provided to others. [PL 2023, c. 405, Pt. A, §13 (AMD).]

For purposes of this subsection, the term "individual" or "class of individuals" refers to the clients or customers of the covered public accommodation that enters into a contractual, licensing or other arrangement;

[PL 2023, c. 405, Pt. A, §§12, 13 (AMD).]

5. Integrated setting; programs or activities not separate or different. For a covered entity to not afford goods, services, facilities, privileges, advantages and accommodations to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability may not be denied the opportunity to participate in programs or activities that are not separate or different;

[PL 1995, c. 393, §24 (NEW).]

6. Association. For a covered entity to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations or other opportunities to an individual or entity because of the known protected class status of an individual with whom the individual or entity is known to have a relationship or association;

[PL 2021, c. 366, §15 (AMD).]

7. Administrative methods. For an individual or an entity, directly or through contractual or other arrangements, to utilize standards or criteria or methods of administration:

A. That have the effect of discrimination on the basis of disability; or [PL 1995, c. 393, §24 (NEW).]

B. That perpetuate the discrimination of others who are subject to common administrative control; [PL 2019, c. 464, §5 (AMD).]

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8. Service animals. For any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation to refuse to permit the use of a service animal or otherwise discriminate against an individual with a physical or mental disability who uses a service animal at the public accommodation unless it is shown by defense that the service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the public accommodation by others. The use of a service animal may not be conditioned on the payment of a fee or security deposit, although the individual with a physical or mental disability is liable for any damage done to the premises or facilities by such a service animal. This subsection does not apply to an assistance animal as defined in section 4553, subsection 1-H unless the assistance animal also qualifies as a service animal; and

[PL 2019, c. 464, §6 (AMD).]

9. Unlawful public accommodations. For any public accommodation to designate a single-occupancy toilet facility as for use only by members of one sex. A single-occupancy toilet facility may be identified by a sign, as long as the sign does not indicate that the facility is for use by members of one specific sex. For the purposes of this subsection, a "single-occupancy toilet facility" is a restroom for use by one user at a time or for family or assisted use and that has an outer door that can be locked by the occupant.

[PL 2019, c. 464, §7 (NEW).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1973, c. 347, §12 (AMD). PL 1973, c. 705, §10 (AMD). PL 1975, c. 355, §11 (RPR). PL 1975, c. 358, §14 (AMD). PL 1975, c. 770, §39 (RPR). PL 1985, c. 638, §§2,3 (AMD). PL 1989, c. 301 (RPR). PL 1991, c. 99, §§21,22 (AMD). PL 1995, c. 393, §§22-24 (AMD). PL 1995, c. 511, §2 (AMD). PL 1995, c. 511, §3 (AFF). PL 2005, c. 10, §17 (AMD). PL 2007, c. 664, §§5-7 (AMD). PL 2015, c. 457, §4 (AMD). PL 2019, c. 464, §§5-7 (AMD). PL 2021, c. 366, §§13-15 (AMD). PL 2023, c. 405, Pt. A, §§11-13 (AMD). PL 2023, c. 489, §§7-9 (AMD).

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