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I N   A S S E M B L Y

April 14, 2010

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Introduced by M. of A. PAULIN, CUSICK, GUNTHER, LIFTON, MILLMAN, J. RIVERA, ROSENTHAL, SCHROEDER, WEISENBERG, JAFFEE, ESPAILLAT, TITUS, KAVANAGH, LANCMAN -- Multi-Sponsored by -- M. of A. BING, CLARK, COLTON, GABRYSZAK, GLICK, GOTTFRIED, JOHN, LUPARDO, MARKEY, MAYERSOHN, McENENY, PHEFFER, REILLY, SWEENEY, TOWNS -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to certain unlawful discriminatory practices

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 292 of the executive law is amended by adding two  
2 new subdivisions 35 and 36 to read as follows:

3     35. THE TERM "PUBLIC ENTITY" MEANS THE STATE OR ANY POLITICAL SUBDIVI-  
4 SION THEREOF, AND ANY DEPARTMENT, AGENCY, SPECIAL PURPOSE DISTRICT, OR  
5 OTHER INSTRUMENTALITY OF THE STATE OR LOCAL GOVERNMENT.

6     36. THE TERM "AUXILIARY AIDS AND SERVICES" INCLUDES:

7     (A) QUALIFIED INTERPRETERS OR OTHER EFFECTIVE METHODS OF MAKING AURAL-  
8 LY DELIVERED MATERIALS AVAILABLE TO INDIVIDUALS WITH HEARING IMPAIR-  
9 MENTS;

10    (B) QUALIFIED READERS, TAPED TEXT OR OTHER EFFECTIVE METHODS OF MAKING  
11 VISUALLY DELIVERED MATERIALS AVAILABLE TO INDIVIDUALS WITH VISUAL  
12 IMPAIRMENTS;

13    (C) ACQUISITION OR MODIFICATION OF EQUIPMENT OR DEVICES; AND

14    (D) OTHER SIMILAR SERVICES AND ACTIONS.

15     S 2. Section 296 of the executive law is amended by adding three new  
16 subdivisions 3-c, 3-d and 3-e to read as follows:

17     3-C. NO QUALIFIED INDIVIDUAL WITH A DISABILITY SHALL, BY REASON OF  
18 SUCH DISABILITY, BE EXCLUDED FROM PARTICIPATION IN OR BE DENIED THE  
19 BENEFITS OF THE SERVICES, PROGRAMS OR ACTIVITIES OF A PUBLIC ENTITY, OR  
20 BE SUBJECTED TO DISCRIMINATION BY ANY SUCH ENTITY.

21     3-D. IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR A PUBLIC  
22 ENTITY TO REFUSE TO MAKE REASONABLE MODIFICATIONS TO RULES, POLICIES OR  
23 PRACTICES; TO REFUSE TO REMOVE ARCHITECTURAL, COMMUNICATION, OR TRANS-  
24 PORTATION BARRIERS; OR TO REFUSE TO PROVIDE AUXILIARY AIDS AND SERVICES

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 TO A PERSON WITH A DISABILITY WHO MEETS THE ESSENTIAL ELIGIBILITY  
2 REQUIREMENTS FOR SERVICES BY A PUBLIC ENTITY, UNLESS THE PUBLIC ENTITY  
3 CAN DEMONSTRATE THAT TO DO SO WOULD POSE AN UNDUE HARDSHIP. THE FACTORS  
4 TO BE CONSIDERED IN DETERMINING "UNDUE HARDSHIP" SHALL INCLUDE THE SIZE  
5 OF THE PUBLIC ENTITY, AND THE NATURE AND COST OF THE ACCOMMODATION NEED-  
6 ED.

7 3-E. TO THE EXTENT THAT THE SERVICES, PROGRAMS, ACTIVITIES, OR RULES,  
8 POLICIES AND PRACTICES OF THE NATIONAL RAILROAD PASSENGER CORPORATION,  
9 OR OTHER PUBLIC TRANSPORTATION ENTITY WHICH IS OPERATED BY THE STATE, A  
10 COUNTY, CITY, TOWN OR VILLAGE, OR ANY AGENCY THEREOF, OR BY ANY PUBLIC  
11 BENEFIT CORPORATION OR AUTHORITY, ARE COVERED BY SUBTITLE B TITLE II OF  
12 THE AMERICANS WITH DISABILITIES ACT OF 1990, 42 USC 12141 ET SEQ., ANY  
13 AMENDMENTS THERETO, AND THE REGULATIONS PROMULGATED THEREUNDER, SUCH  
14 ENTITIES SHALL NOT BE SUBJECT TO THE REQUIREMENTS OF SUBDIVISIONS  
15 THREE-C AND THREE-D OF THIS SECTION INCLUDING BUT NOT LIMITED TO THE  
16 REQUIREMENTS FOR THE REMOVAL OF ARCHITECTURAL, COMMUNICATIONS, OR TRANS-  
17 PORTATION BARRIERS UNDER SUBDIVISION THREE-D OF THIS SECTION.

18 S 3. This act shall take effect on the one hundred twentieth day after  
19 it shall have become a law.