S T A T E O F N E W Y O R K

827

2009-2010 Regular Sessions

I N S E N A T E

January 18, 2009

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to providing for wheelchair availability to physically handicapped persons in public buildings and shopping malls

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

Section 1. The general business law is amended by adding a new article 32-A to read as follows:

ARTICLE 32-A
FUNCTIONING WHEELCHAIRS FOR
PUBLIC BUILDINGS AND SHOPPING MALLS

SECTION 676. DEFINITIONS.
677. REQUIREMENT FOR OWNERS OF PUBLIC BUILDINGS AND SHOPPING MALLS TO PROVIDE FUNCTIONING WHEELCHAIRS.
678. PENALTIES.

S 676. DEFINITIONS. AS USED IN THIS ARTICLE: 1. "MUNICIPALITY" OR "MUNICIPAL" MEANS A CITY, TOWN, COUNTY, VILLAGE, SCHOOL DISTRICT OR SPECIAL DISTRICT AS DEFINED BY SECTION ONE HUNDRED TWO OF THE REAL PROPERTY TAX LAW.

2. "PHYSICALLY HANDICAPPED" MEANS:

(A) IMPAIRMENT REQUIRING CONFINEMENT TO A WHEELCHAIR; OR

(B) IMPAIRMENT CAUSING DIFFICULTY OR INSECURITY IN WALKING OR CLIMBING STAIRS OR REQUIRING THE USE OF BRACES, CRUTCHES OR OTHER ARTIFICIAL SUPPORTS; OR IMPAIRMENT CAUSED BY AMPUTATION, ARTHRITIS, SPASTIC CONDITION OR PULMONARY, CARDIAC OR OTHER ILLS RENDERING THE INDIVIDUAL SEMI-AMBULATORY; OR

(C) TOTAL OR PARTIAL IMPAIRMENT OF HEARING OR SIGHT CAUSING INSECURITY OR LIKELIHOOD OF EXPOSURE TO DANGER IN PUBLIC PLACES; OR

(D) IMPAIRMENT DUE TO CONDITIONS OF AGING AND INCOORDINATION.

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

LBD06308-01-9

3. "PUBLIC BUILDING" MEANS ANY BUILDING OR PORTION THEREOF, OTHER THAN A PRIVATELY OWNED RESIDENTIAL STRUCTURE, PUBLIC HOUSING STRUCTURE, POLICE, FIRE OR CORRECTION STRUCTURE, CONSTRUCTED WHOLLY OR PARTIALLY WITH STATE OR MUNICIPAL FUNDS, WHETHER TAX FUNDS, FUNDS OBTAINED THROUGH BOND ISSUES OR GRANTS OR LOANS UNDER ANY STATE LAW, WHICH IS LIKELY TO BE USED BY PHYSICALLY HANDICAPPED PERSONS, INCLUDING, BUT NOT LIMITED TO THEATERS, CONCERT HALLS, AUDITORIUMS, MUSEUMS, SCHOOLS, LIBRARIES, RECREATION FACILITIES, TRANSPORTATION TERMINALS AND STATIONS, FACTORIES, OFFICE BUILDINGS AND BUSINESS ESTABLISHMENTS.

4. "PUBLIC ENTRANCE" MEANS ANY POINT OF ACCESS TO OR EGRESS FROM A BUILDING OR PORTION OF A BUILDING FOR THE USE OF THE GENERAL PUBLIC AND NOT INTENDED PRIMARILY FOR THE DELIVERY OF GOODS AND SERVICES.

5. "RETAIL ESTABLISHMENT" MEANS ANY FACILITY OR PROPERTY THAT IS PRIMARILY USED IN MAKING RETAIL SALES AS DEFINED IN SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH FOUR OF SUBDIVISION (B) OF SECTION ELEVEN HUNDRED ONE OF THE TAX LAW.

6. "SHOPPING MALL" MEANS ANY PRIVATELY OWNED BUILDING OR SERIES OF BUILDINGS HOUSING TWENTY OR MORE RETAIL ESTABLISHMENTS HAVING PUBLIC ENTRANCES ACCESSIBLE TO ONE ANOTHER BY WAY OF ENCLOSED HALLWAYS, WALK-WAYS OR PASSAGEWAYS AND OFFERING FOR LEASE A TOTAL OF TWENTY THOUSAND SQUARE FEET OR MORE OF RETAIL SPACE, REGARDLESS OF WHETHER VACANT OR NOT.

7. "STATE" SHALL MEAN THE STATE OF NEW YORK AND ANY STATE BOARD, BUREAU, COMMISSION, DEPARTMENT, AUTHORITY, DIVISION, OFFICER OR PUBLIC BENEFIT CORPORATION.

8. "VERIFIABLE", "VERIFIABLY" OR "VERIFICATION" WITH RESPECT TO WHETH-ER OR NOT AN IMPAIRMENT EXISTS MEANS CAPABLE OF BEING SHOWN BY MEANS OF VISIBLE OR WRITTEN PROOF, SUCH AS, BUT NOT LIMITED TO, A WRITTEN CERTIF-ICATE SIGNED BY A PHYSICIAN OR A PERMIT ISSUED BY THE STATE OR A MUNICI-PALITY.

S 677. REQUIREMENT FOR OWNERS OF PUBLIC BUILDINGS AND SHOPPING MALLS TO PROVIDE FUNCTIONING WHEELCHAIRS. 1. OWNERS OF PUBLIC BUILDINGS AND SHOPPING MALLS SHALL PROVIDE AND MAINTAIN A SUFFICIENT NUMBER OF FUNC-TIONING WHEELCHAIRS FOR THE USE OF VERIFIABLY PHYSICALLY HANDICAPPED PERSONS FREE OF CHARGE DURING THE PERIODS OF TIME SUCH PERSONS USE OR VISIT THE PREMISES AND THE FACILITIES AND RETAIL ESTABLISHMENTS LOCATED THEREIN. EVERY WHEELCHAIR SO PROVIDED SHALL BE RETURNED BY THE VERIFI-ABLY PHYSICALLY HANDICAPPED PERSON WHO MADE USE OF IT TO THE PLACE FROM WHICH IT WAS OBTAINED UPON SUCH PERSON'S DEPARTURE FROM THE PREMISES OF THE PUBLIC BUILDING OR SHOPPING MALL.

2. A "SUFFICIENT NUMBER", AS REQUIRED BY SUBDIVISION ONE OF THIS SECTION, SHALL BE PRESUMED TO HAVE BEEN ATTAINED IF SUCH OWNER PROVIDES AT LEAST TWO FUNCTIONING WHEELCHAIRS FOR EACH PUBLIC ENTRANCE OF A PUBLIC BUILDING OR SHOPPING MALL.

S 678. PENALTIES. FAILURE TO PROVIDE A SUFFICIENT NUMBER OF FUNCTION-ING WHEELCHAIRS AS REQUIRED BY THIS ARTICLE SHALL BE CONSIDERED A VIOLATION AND BE SUBJECT TO A CIVIL PENALTY OF UP TO ONE THOUSAND DOLLARS FOR A FIRST VIOLATION; TWO THOUSAND FIVE HUNDRED DOLLARS FOR A SECOND VIOLATION; AND FIVE THOUSAND DOLLARS FOR A THIRD VIOLATION AND ANY SUBSEQUENT VIOLATION.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.