

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:

1 Section 1. The general business law is amended by adding a new article
2 32-A to read as follows:

3 ARTICLE 32-A

4 FUNCTIONING WHEELCHAIRS FOR
5 PUBLIC BUILDINGS AND SHOPPING MALLS

6 SECTION 676. DEFINITIONS.

7 677. REQUIREMENT FOR OWNERS OF PUBLIC BUILDINGS AND SHOPPING
8 MALLS TO PROVIDE FUNCTIONING WHEELCHAIRS.

9 678. PENALTIES.

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

14 2. "PHYSICALLY HANDICAPPED" MEANS:

15 (A) IMPAIRMENT REQUIRING CONFINEMENT TO A WHEELCHAIR; OR

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

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

23 (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.

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

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

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

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

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

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

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

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

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

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