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

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2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. PAULIN, CUSICK, GUNTHER, MILLMAN, J. RIVERA, ROSENTHAL, SCHROEDER, WEISENBERG, JAFFEE, TITUS, KAVANAGH, LANCMAN, SPANO -- Multi-Sponsored by -- M. of A. BING, CLARK, COLTON, GABRYSZAK, GLICK, GOTTFRIED, 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:

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

35. THE TERM "PUBLIC ENTITY" MEANS THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, AND ANY DEPARTMENT, AGENCY, SPECIAL PURPOSE DISTRICT, OR OTHER INSTRUMENTALITY OF THE STATE OR LOCAL GOVERNMENT.

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

(A) QUALIFIED INTERPRETERS OR OTHER EFFECTIVE METHODS OF MAKING AURALLY DELIVERED MATERIALS AVAILABLE TO INDIVIDUALS WITH HEARING IMPAIRMENTS;

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

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

(D) OTHER SIMILAR SERVICES AND ACTIONS.

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

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

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

LBD00918-01-1

3-D. IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR A PUBLIC ENTITY TO REFUSE TO MAKE REASONABLE MODIFICATIONS TO RULES, POLICIES OR PRACTICES; TO REFUSE TO REMOVE ARCHITECTURAL, COMMUNICATION, OR TRANSPORTATION BARRIERS; OR TO REFUSE TO PROVIDE AUXILIARY AIDS AND SERVICES TO A PERSON WITH A DISABILITY WHO MEETS THE ESSENTIAL ELIGIBILITY REQUIREMENTS FOR SERVICES BY A PUBLIC ENTITY, UNLESS THE PUBLIC ENTITY CAN DEMONSTRATE THAT TO DO SO WOULD POSE AN UNDUE HARDSHIP. THE FACTORS TO BE CONSIDERED IN DETERMINING "UNDUE HARDSHIP" SHALL INCLUDE THE SIZE OF THE PUBLIC ENTITY, AND THE NATURE AND COST OF THE ACCOMMODATION NEEDED.

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

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