

2407

2011-2012 Regular Sessions

I N S E N A T E

January 20, 2011

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and
when printed to be committed to the Committee on Investigations and
Government 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 ASSEM-
BLY, 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.