

# STATE OF NEW YORK

10458

## IN ASSEMBLY

April 23, 2018

Introduced by M. of A. GUNTHER, M. L. MILLER -- read once and referred to the Committee on Tourism, Parks, Arts and Sports Development

AN ACT to amend the parks, recreation and historic preservation law and the executive law, in relation to providing beach access routes for mobility impaired persons

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The parks, recreation and historic preservation law is  
2 amended by adding a new section 13.33 to read as follows:

3 § 13.33 Access routes for mobility impaired persons to state beaches.

4 1. Beach areas operated by the office shall include beach access routes  
5 provided for mobility impaired persons connecting the entry point of the  
6 beach to the:

7 (a) median high tide level at tidal beaches;

8 (b) mean high water level at river beaches; or

9 (c) normal recreation water level at lake, pond, and reservoir beach-  
10 es.

11 2. Such access routes may be provided by means of mats, of no less  
12 than five feet in width, or by such other equally effective system as  
13 may be determined to be more suitable by the office. Access routes are  
14 to have a slope of no more than ten percent and are to include rest  
15 areas of at least five feet square at appropriate intervals as deter-  
16 mined by the office.

17 § 2. Subparagraphs (iv) and (v) of paragraph (c) of subdivision 2 of  
18 section 296 of the executive law, as amended by chapter 89 of the laws  
19 of 2015, are amended and a new subparagraph (vi) is added to read as  
20 follows:

21 (iv) where such person is a local or state government entity, a  
22 refusal to remove architectural barriers, and communication barriers  
23 that are structural in nature, in existing facilities, and transporta-  
24 tion barriers in existing vehicles and rail passenger cars used by an  
25 establishment for transporting individuals (not including barriers that  
26 can only be removed through the retrofitting of vehicles or rail passen-  
27 ger cars by the installation of a hydraulic or other lift), where such

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

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1 removal does not constitute an undue burden; except as set forth in  
2 paragraph (e) of this subdivision; nothing in this section would require  
3 a public entity to: necessarily make each of its existing facilities  
4 accessible to and usable by individuals with disabilities; take any  
5 action that would threaten or destroy the historical significance of an  
6 historic property; or to make structural changes in existing facilities  
7 where other methods are effective in achieving compliance with this  
8 section; [and]

9 (v) where such person can demonstrate that the removal of a barrier  
10 under subparagraph (iii) of this paragraph is not readily achievable, a  
11 failure to make such facilities, privileges, advantages or accommo-  
12 dations available through alternative methods if such methods are readi-  
13 ly achievable[ ]; and

14 (vi) (A) where such person is a local or state government entity, a  
15 refusal to ensure that access routes are provided for mobility impaired  
16 persons from the entry point of the beach open to the:

17 (1) median high tide level at tidal beaches;

18 (2) mean high water level at river beaches; or

19 (3) normal recreation water level at lake, pond, and reservoir beach-  
20 es.

21 (B) Such access routes may be provided by means of mats, of no less  
22 than five feet in width, or by such other equally effective system as  
23 may be determined to be more suitable by the office of parks, recreation  
24 and historic preservation. Access routes are to have a slope of no more  
25 than ten percent and are to include rest areas of at least five feet  
26 square at appropriate intervals as determined by such office.

27 § 3. This act shall take effect on the one hundred twentieth day after  
28 it shall have become a law; provided that any rules and regulations  
29 necessary to implement the provisions of this act on its effective date  
30 are authorized and directed to be promulgated and shall become effective  
31 on such date.