

# STATE OF NEW YORK

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6128

2017-2018 Regular Sessions

## IN SENATE

May 11, 2017

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Introduced by Sen. MURPHY -- 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, the legislative law, the public service law, the public buildings law, the education law, the social services law, the general business law, the civil service law, the workers' compensation law, the agriculture and markets law and the public housing law, in relation to changing references to "hearing impaired" to "deaf or hard of hearing"

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

1 Section 1. Subdivision 14 of section 296 of the executive law, as  
2 amended by chapter 141 of the laws of 2015, is amended to read as  
3 follows:  
4 14. In addition to reasonable modifications in policies, practices, or  
5 procedures, including those defined in subparagraph (iv) of paragraph  
6 (d) of subdivision two of this section or reasonable accommodations for  
7 persons with disabilities as otherwise provided in this section, includ-  
8 ing the use of an animal as a reasonable accommodation, it shall be an  
9 unlawful discriminatory practice for any person engaged in any activity  
10 covered by this section to deny access or otherwise to discriminate  
11 against a blind person, a [~~hearing-impaired~~] person who is deaf or hard  
12 of hearing or a person with another disability because he or she is  
13 accompanied by a dog that has been trained to work or perform specific  
14 tasks for the benefit of such person by a professional guide dog, hear-  
15 ing dog or service dog training center or professional guide dog, hear-  
16 ing dog or service dog trainer, or to discriminate against such profes-  
17 sional guide dog, hearing dog or service dog trainer engaged in such  
18 training of a dog for use by a person with a disability, whether or not  
19 accompanied by the person for whom the dog is being trained.

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

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1 § 2. Subparagraph (ii) of paragraph a and paragraph c of subdivision 9  
2 of section 374 of the executive law, as amended by chapter 23 of the  
3 laws of 1989, are amended to read as follows:

4 (ii) three members one of whom shall represent an organization which  
5 serves as an advocate for the [~~hearing-impaired~~] deaf and hard of hear-  
6 ing, one of whom shall represent consumers of products designed for the  
7 [~~hearing-impaired~~] deaf and hard of hearing, and one of whom represents  
8 an institution of higher education with expertise in the area of assis-  
9 tive listening technology, who shall be entitled to be reimbursed for  
10 necessary travel and incidental expenses out of monies appropriated to  
11 the division of housing and community renewal.

12 c. In developing such recommendations the advisory board shall take  
13 into consideration the costs of such systems, the standardization and  
14 compatibility of such systems, if the technology permits, and the utili-  
15 zation of such systems by the [~~hearing-impaired~~] consumer who is deaf or  
16 hard of hearing. Particular attention should be given to the ability of  
17 consumers to utilize a single receiver which is compatible in a variety  
18 of installations employing the same assistive listening device technolo-  
19 gy.

20 § 3. Subdivision 8 and the opening paragraph of subdivision 10 of  
21 section 378 of the executive law, as renumbered by chapter 494 of the  
22 laws of 1991, subdivision 8 as added by chapter 435 of the laws of 1986  
23 and the opening paragraph of subdivision 10 as amended by chapter 23 of  
24 the laws of 1989, are amended to read as follows:

25 8. Standards for hotels, motels and lodging houses requiring (in addi-  
26 tion to any other requirement) portable smoke-detecting alarm devices  
27 for the deaf and hard of hearing [~~impaired~~] of audible and visual  
28 design, available for three percent of all units available for occupan-  
29 cy, with a minimum of one unit. If any other law or regulation requires  
30 a central, closed circuit interior alarm system, such device shall be  
31 incorporated into or connected to the system so as to be capable of  
32 being activated by the system. Incorporation into the existing system  
33 shall be in lieu of the portable alarms. Standards shall require opera-  
34 tors of any such establishment to post conspicuously at the main desk or  
35 other similar station a notice in letters at least three inches in  
36 height stating that smoke-detector alarm devices for the deaf and hard  
37 of hearing [~~impaired~~] are available. The council shall mandate by rule  
38 and regulation the specific design of the smoke-detector alarm devices.

39 Standards for assistive listening systems for new construction  
40 commenced after January first, nineteen hundred ninety-one requiring the  
41 installation of assistive listening systems at all places of public  
42 assembly so designated by the appropriate building and fire code for use  
43 by [~~hearing-impaired~~] persons who are deaf or hard of hearing who  
44 require use of such a system to improve their reception of sound.

45 § 4. Section 7-e of the legislative law, as added by chapter 169 of  
46 the laws of 1987, is amended to read as follows:

47 § 7-e. Assistive listening system for the deaf and hard of hearing  
48 [~~impaired~~]. (a) The temporary president of the senate and the speaker of  
49 the assembly shall have the power and it shall be their individual duty  
50 to equip the senate chambers, the assembly chambers and any hearing  
51 rooms located in the legislative office building in Albany which accom-  
52 modate more than one hundred persons with an assistive listening system  
53 for use by the deaf and hard of hearing [~~impaired~~].

54 (b) For purposes of this section, the term "assistive listening  
55 system" shall mean situational-personal acoustic communication equipment  
56 designed to improve the transmission and auditory reception of sound.

1 Such system shall include but not be limited to the use of standard  
2 amplitude modulation (AM), frequency modulation (FM), audio induction  
3 loop, infrared light sound, or hard wire systems.

4 § 5. The section heading and subdivision 1 of section 92-a of the  
5 public service law, as amended by section 3 of part H-1 of chapter 62 of  
6 the laws of 2003, are amended to read as follows:

7 Special telephone equipment for deaf and hard of hearing [~~impaired~~]  
8 persons. 1. The commission shall require any regulated landline tele-  
9 phone corporation providing local exchange service to sell or lease  
10 special telecommunication equipment to a person certified as deaf or  
11 hard of hearing [~~impaired~~] where the addition of such equipment is  
12 necessary to enable such person to access and utilize the local exchange  
13 network. The sale of such equipment shall be at an amount not to exceed  
14 the actual purchase price by the corporation and the lease of such  
15 equipment shall be at a rate to be determined by the commission. Any  
16 person who leases such equipment shall be permitted to apply the lease  
17 payments toward the equipment's purchase.

18 § 6. Section 92-a of the public service law, as amended by chapter 487  
19 of the laws of 1987, is amended to read as follows:

20 § 92-a. Special telephone equipment for deaf and hard of hearing  
21 [~~impaired~~] persons. The commission shall require any regulated landline  
22 telephone corporation providing local exchange service to sell or lease  
23 special telecommunication equipment to a person certified as deaf or  
24 hard of hearing [~~impaired~~] where the addition of such equipment is  
25 necessary to enable such person to access and utilize the local exchange  
26 network. The sale of such equipment shall be at an amount not to exceed  
27 the actual purchase price by the corporation and the lease of such  
28 equipment shall be at a rate to be determined by the commission. Any  
29 person who leases such equipment shall be permitted to apply the lease  
30 payments toward the equipment's purchase.

31 § 7. Paragraph (a) of subdivision 9 of section 3 of the public build-  
32 ings law, as added by chapter 169 of the laws of 1987, is amended to  
33 read as follows:

34 (a) The commissioner of general services shall have the power and it  
35 shall be his or her duty to equip that room in the state capitol custom-  
36 arily utilized by the governor to brief the members of the working press  
37 and news media with an assistive listening system for use by the deaf  
38 and hard of hearing [~~impaired~~].

39 § 8. Subdivision 1 of section 53 of the public buildings law, as  
40 amended by chapter 23 of the laws of 1989, is amended to read as  
41 follows:

42 1. All new public buildings, construction of which commences after  
43 January first, nineteen hundred ninety-one, containing an auditorium,  
44 theater, meeting hall, hearing room, amphitheater, or room used in any  
45 similar capacity which are so designated by the appropriate building and  
46 fire code shall have equipped and installed an assistive listening  
47 system for use by [~~hearing-impaired~~] persons who are deaf or hard of  
48 hearing who require the use of such a system to improve their reception  
49 of sound.

50 § 9. Subdivisions 1 and 3 of section 3230 of the education law, as  
51 added by chapter 765 of the laws of 1992, are amended to read as  
52 follows:

53 1. The board of education or trustees of each school district shall  
54 ensure that at any meeting or activity which is conducted by the board  
55 of education, trustees, school district or a district school which is  
56 specific to a child's educational program and which parents or persons

1 in parental relationship who are deaf or hard of hearing [~~impaired~~], as  
2 defined by the commissioner, attend, the board of education or trustees  
3 shall provide interpreter services at no charge to such persons,  
4 provided a written request therefor is made to the school district with-  
5 in a reasonable time prior to the scheduled meeting or activity. In the  
6 event interpreter services are requested, the school district shall  
7 appoint an interpreter of the deaf to interpret the proceedings of the  
8 meeting or activity. In the event that an interpreter is unavailable,  
9 other reasonable accommodations shall be made which are satisfactory to  
10 the parents or guardians.

11 3. For the purposes of this section "meeting" or "activity" shall  
12 include those school-initiated meetings or activities which parents or  
13 persons in parental relationship who are deaf or hard of hearing  
14 [~~impaired~~] attend which are specific to the academic and/or disciplinary  
15 aspects of their child's educational program including parent-teacher  
16 conferences and other such meetings and activities as defined by the  
17 commissioner.

18 § 10. Paragraph c of subdivision 6 of section 4410 of the education  
19 law, as added by chapter 581 of the laws of 2011, is amended to read as  
20 follows:

21 c. Notwithstanding any other provision of law to the contrary, the  
22 exemption in subdivision two of section eighty-two hundred seven of this  
23 chapter shall apply to persons employed by a center-based program  
24 approved pursuant to subdivision nine of this section to perform the  
25 duties of a speech-language pathologist, audiologist, teacher of the  
26 speech and deaf and hard of hearing [~~impaired~~] or teacher of the deaf to  
27 students enrolled in such approved center-based program in the course of  
28 their employment.

29 § 11. Subdivision 3 of section 326-b of the social services law, as  
30 amended by chapter 191 of the laws of 1989, is amended to read as  
31 follows:

32 3. The loan fund shall provide the disabled with the financial oppor-  
33 tunity to purchase or replace essential equipment used by them for daily  
34 living or vocational functioning following rehabilitation, including,  
35 but not limited to, prosthesis, ramps, wheelchairs, wheelchair van  
36 lifts, telecommunication devices for the deaf and hard of hearing  
37 [~~impaired~~], devices which allow persons who are blind or visually  
38 impaired to discern printed materials and adaptive equipment to permit a  
39 disabled person to operate a motor vehicle but not to purchase or  
40 replace a motor vehicle itself.

41 § 12. Subdivision 1 of section 336-b of the general business law, as  
42 added by chapter 190 of the laws of 1991, is amended to read as follows:

43 1. Each telephone corporation doing business in this state which  
44 provides public pay telephones, including those owners or providers of  
45 customer owned currency operated telephones (COCOT's), shall provide at  
46 least twenty-five percent of its public pay telephones installed on or  
47 after January first, nineteen hundred ninety-three with volume control  
48 equipment to enable deaf or hard of hearing [~~impaired~~] persons to access  
49 and utilize telecommunications services. The telephones with volume  
50 control equipment shall be distributed evenly among the public pay tele-  
51 phones provided by the corporation. Each public pay telephone with a  
52 volume control shall have signage either on the telephone or in the  
53 immediate vicinity thereof, identifying that telephone as being equipped  
54 with a deaf or hard of hearing [~~impaired~~] volume control.

1 § 13. Subparagraph (ii) of paragraph (a) of subdivision 13 of section  
2 798 of the general business law, as amended by chapter 301 of the laws  
3 of 2000, is amended to read as follows:

4 (ii) and the physician certifies in writing that, in his or her  
5 professional judgement, at the time the dispensing occurred the purchas-  
6 er had either a diagnosis of deafness or being hard of hearing [~~impair-~~  
7 ~~ment~~] for which a hearing aid provides no benefit or had a medical  
8 condition which contraindicates the use of a hearing aid, and

9 § 14. Paragraphs (n) and (q) of subdivision 2 of section 799 of the  
10 general business law, paragraph (n) as amended by chapter 133 of the  
11 laws of 1999 and paragraph (q) as added by chapter 599 of the laws of  
12 1998, are amended to read as follows:

13 (n) no hearing aid dispenser, registrant or hearing aid trainee shall  
14 state or imply that the use of any hearing aid will restore hearing to  
15 normal, or preserve hearing, or prevent or retard the progression of [~~a~~]  
16 deafness or being hard of hearing [~~impairment~~] or any false or mislead-  
17 ing or medically or audiologicaly unsupportable claims regarding the  
18 efficacy or benefits of hearing aids.

19 (q) making any predictions or prognostications as to the future course  
20 of [~~a~~] deafness or being hard of hearing [~~impairment~~], either in general  
21 terms or with reference to an individual person, except where such  
22 predictions and prognostications are made by a hearing aid dispenser  
23 licensed pursuant to the provisions of article one hundred fifty-nine of  
24 the education law and consistent with such law.

25 § 15. Paragraph (c) of subdivision 1 of section 6 of the civil service  
26 law, as amended by chapter 265 of the laws of 2013, is amended to read  
27 as follows:

28 (c) rules for sick leaves, vacations, time allowances and other condi-  
29 tions of employment in the classified service of the state and, notwith-  
30 standing any other provision of this chapter or any other law, such  
31 rules may provide for cash payment of the monetary value of accumulated  
32 and unused vacation or time allowances granted in lieu of overtime  
33 compensation standing to the credit of an employee at the time of his or  
34 her separation from service or his or her entrance into the armed forces  
35 of the United States for active duty (other than for training) as  
36 defined by title ten of the United States code, whether or not such  
37 entrance constitutes a separation from service, and for the payment of  
38 the monetary value of his or her accumulated and unused time allowances  
39 granted in lieu of overtime compensation standing to the credit of an  
40 employee at the time of his or her appointment, promotion or transfer  
41 from the department or agency in which such time allowances were earned  
42 to another department or agency and provided further however that any  
43 such rules or regulations shall provide that individuals certified by an  
44 examining physician as benefiting from the use of a service animal in  
45 performing major life activities, individuals registered with the New  
46 York state commission for the blind as legally blind or certified by an  
47 examining physician or licensed optometrist as legally blind, as mani-  
48 fested by visual acuity of 20/200 or less in the better eye with best  
49 correction or visual field of 20 degrees or less, and individuals who  
50 [~~have a~~] are deaf or hard of hearing [~~impairment~~] manifested by a speech  
51 discrimination score of forty percent or less in the better ear with  
52 appropriate correction as certified by an examining physician or a  
53 licensed audiologist or otorhinolaryngologist as defined in section  
54 seven hundred eighty-nine of the general business law, or a physician  
55 who has examined such person pursuant to the provisions of section seven  
56 hundred ninety-two of such law, may charge against accumulated sick

1 leave credits and upon written agreement between the individual and the  
2 employer, may borrow against sick leave credits not yet accumulated, for  
3 the purpose of obtaining service animals or guide dogs and necessary  
4 training, up to a maximum of twenty-six days in any one calendar year;  
5 and

6 § 16. Subdivision (e) of section 49-gg of the workers' compensation  
7 law, as amended by chapter 415 of the laws of 1983, is amended to read  
8 as follows:

9 (e) proper deductions for presbycusis and other non-industrial causes  
10 of deafness and being hard of hearing [~~impairment~~], and

11 § 17. Subdivision 21 of section 108 of the agriculture and markets  
12 law, as amended by chapter 536 of the laws of 2014, is amended to read  
13 as follows:

14 21. "Hearing dog" means any dog that is trained to aid a person [~~with~~  
15 ~~a~~] who is deaf or hard of hearing [~~impairment~~] and is actually used for  
16 such purpose, or any dog during the period such dog is being trained or  
17 bred for such purpose.

18 § 18. Section 223-b of the public housing law, as amended by chapter  
19 536 of the laws of 2014, is amended to read as follows:

20 § 223-b. Discrimination against a person [~~with-a~~] who is deaf or hard  
21 of hearing [~~impairment~~] who has a hearing dog. No person who [~~has-a~~] is  
22 deaf or hard of hearing [~~impairment~~] shall be denied occupancy in a  
23 dwelling in any project or be subjected to eviction from any such dwell-  
24 ing on the sole ground that such person owns a hearing dog as defined in  
25 section forty-seven-b of the civil rights law, provided, however, that  
26 if after occupancy a health hazard results on account of such dog, the  
27 public health officer having jurisdiction may take such corrective meas-  
28 ures as may be appropriate.

29 § 19. This act shall take effect immediately; provided that the amend-  
30 ments to section 92-a of the public service law, made by section five of  
31 this act, shall not affect the expiration and reversion of such section,  
32 and shall expire therewith when upon such date section six of this act  
33 shall take effect.