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:

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

§ 13.33 Access routes for mobility impaired persons to state beaches. 1. Beach areas operated by the office shall include beach access routes provided for mobility impaired persons connecting the entry point of the beach to the:

(a) median high tide level at tidal beaches;

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

(c) normal recreation water level at lake, pond, and reservoir beaches.

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

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

(iv) where such person is a local or state government entity, a refusal to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger 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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removal does not constitute an undue burden; except as set forth in paragraph (e) of this subdivision; nothing in this section would require a public entity to: necessarily make each of its existing facilities accessible to and usable by individuals with disabilities; take any action that would threaten or destroy the historical significance of an historic property; or to make structural changes in existing facilities where other methods are effective in achieving compliance with this section; [~~and~~]

(v) where such person can demonstrate that the removal of a barrier under subparagraph (iii) of this paragraph is not readily achievable, a failure to make such facilities, privileges, advantages or accommodations available through alternative methods if such methods are readily achievable[~~.~~]**; and**

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

(1) median high tide level at tidal beaches;

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

(3) normal recreation water level at lake, pond, and reservoir beaches.

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

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