

# STATE OF NEW YORK

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7178

2017-2018 Regular Sessions

## IN ASSEMBLY

April 12, 2017

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Introduced by M. of A. ENGLEBRIGHT, COOK, GLICK, GALEF, PEOPLES-STOKES, GUNTHER, LAVINE, ROSENTHAL, ZEBROWSKI, BRINDISI, MAYER, MOSLEY, BLAKE, SIMON, WILLIAMS, CARROLL, D'URSO, STECK -- Multi-Sponsored by -- M. of A. HOOPER, LUPARDO -- read once and referred to the Committee on Governmental 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

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

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1 training of a dog for use by a person with a disability, whether or not  
2 accompanied by the person for whom the dog is being trained.

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

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

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

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

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

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

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

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

(b) For purposes of this section, the term "assistive listening system" shall mean situational-personal acoustic communication equipment designed to improve the transmission and auditory reception of sound. Such system shall include but not be limited to the use of standard amplitude modulation (AM), frequency modulation (FM), audio induction loop, infrared light sound, or hard wire systems.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 immediate vicinity thereof, identifying that telephone as being equipped  
2 with a deaf or hard of hearing [~~impaired~~] volume control.

3 § 13. Subparagraph (ii) of paragraph (a) of subdivision 13 of section  
4 798 of the general business law, as amended by chapter 301 of the laws  
5 of 2000, is amended to read as follows:

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

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

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

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

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

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

1 who has examined such person pursuant to the provisions of section seven  
2 hundred ninety-two of such law, may charge against accumulated sick  
3 leave credits and upon written agreement between the individual and the  
4 employer, may borrow against sick leave credits not yet accumulated, for  
5 the purpose of obtaining service animals or guide dogs and necessary  
6 training, up to a maximum of twenty-six days in any one calendar year;  
7 and

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

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

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

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

20 § 18. Section 223-b of the public housing law, as amended by chapter  
21 536 of the laws of 2014, is amended to read as follows:

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

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