# STATE OF NEW YORK

6128

2017-2018 Regular Sessions

# IN SENATE

May 11, 2017

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:**

Section 1. Subdivision 14 of section 296 of the executive law, as amended by chapter 141 of the laws of 2015, is amended to read as follows:

14. In addition to reasonable modifications in policies, practices, or procedures, including those defined in subparagraph (iv) of paragraph (d) of subdivision two of this section or reasonable accommodations for persons with disabilities as otherwise provided in this section, including the use of an animal as a reasonable accommodation, it shall be an unlawful discriminatory practice for any person engaged in any activity covered by this section to deny access or otherwise to discriminate against a blind person, a [~~hearing impaired~~] person **who is deaf or hard of hearing** or a person with another disability because he or she is accompanied by a dog that has been trained to work or perform specific tasks for the benefit of such person by a professional guide dog, hearing dog or service dog training center or professional guide dog, hearing dog or service dog trainer, or to discriminate against such professional guide dog, hearing dog or service dog trainer engaged in such training of a dog for use by a person with a disability, whether or not 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.

LBD10196-02-7

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

(ii) three members one of whom shall represent an organization which serves as an advocate for the [~~hearing impaired~~] **deaf and hard of hearing**, one of whom shall represent consumers of products designed for the [~~hearing impaired~~] **deaf and hard of hearing**, and one of whom represents an institution of higher education with expertise in the area of assistive listening technology, who shall be entitled to be reimbursed for necessary travel and incidental expenses out of monies appropriated to the division of housing and community renewal.

c. In developing such recommendations the advisory board shall take into consideration the costs of such systems, the standardization and compatibility of such systems, if the technology permits, and the utilization of such systems by the [~~hearing impaired~~] consumer **who is deaf or hard of hearing**. Particular attention should be given to the ability of consumers to utilize a single receiver which is compatible in a variety of installations employing the same assistive listening device technology.

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

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

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

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

§ 7-e. Assistive listening system for the **deaf and hard of** hearing [~~impaired~~]. (a) The temporary president of the senate and the speaker of the assembly shall have the power and it shall be their individual duty to equip the senate chambers, the assembly chambers and any hearing rooms located in the legislative office building in Albany which accommodate more than one hundred persons with an assistive listening system 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. The board of education or trustees of each school district shall ensure that at any meeting or activity which is conducted by the board of education, trustees, school district or a district school which is specific to a child's educational program and which parents or persons

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

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

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

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

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

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

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

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

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

(ii) and the physician certifies in writing that, in his or her professional judgement, at the time the dispensing occurred the purchaser had either a **diagnosis of deafness or being hard of** hearing [~~**impairment**~~] for which a hearing aid provides no benefit or had a medical condition which contraindicates the use of a hearing aid, and

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

(n) no hearing aid dispenser, registrant or hearing aid trainee shall state or imply that the use of any hearing aid will restore hearing to normal, or preserve hearing, or prevent or retard the progression of [~~**a**~~] **deafness or being hard of** hearing [~~**impairment**~~] or any false or misleading or medically or audiologically unsupportable claims regarding the efficacy or benefits of hearing aids.

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

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

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

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

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

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

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

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

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

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

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