



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

West's Vermont Statutes Annotated
Title Nine. Commerce and Trade
Part 7. Landlord and Tenant
Chapter 139. Discrimination; Public Accommodations; Rental and Sale of Real Estate (Refs & Annos)

9 V.S.A. § 4502

§ 4502. Public accommodations

Currentness

(a) An owner or operator of a place of public accommodation or an agent or employee of such owner or operator shall not, because of the race, creed, color, national origin, marital status, sex, sexual orientation, or gender identity of any person, refuse, withhold from, or deny to that person any of the accommodations, advantages, facilities, and privileges of the place of public accommodation.

(b) An owner or operator of a place of public accommodation or his or her employee or agent shall not prohibit from entering a place of public accommodation:

(1) an individual with a disability accompanied by a service animal; or

(2) an individual who is training an animal to perform as a service animal for an individual with a disability.

(c) No individual with a disability shall be excluded from participation in or be denied the benefit of the services, facilities, goods, privileges, advantages, benefits, or accommodations, or be subjected to discrimination by any place of public accommodation on the basis of his or her disability as follows:

(1) A public accommodation shall provide an individual with a disability the opportunity to participate in its services, facilities, privileges, advantages, benefits, and accommodations. It is discriminatory to offer an individual an unequal opportunity or separate benefit; however it is permissible to provide a separate benefit if that benefit is necessary to provide an individual or class of individuals an opportunity that is as effective as that provided to others.

(2) A public accommodation shall afford goods, services, facilities, privileges, advantages, and accommodations to an individual with a disability in the most integrated setting which is appropriate for the needs of the individual. Notwithstanding the existence of separate or different programs or activities, a public accommodation shall not deny an individual with a disability an opportunity to participate in such programs or activities that are not separate or different. Nothing in this subsection shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which the individual chooses not to accept.

(3) A public accommodation shall not exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(4) Repealed.

(5) A public accommodation shall make reasonable modifications in policies, practices, or procedures when those modifications are necessary to offer goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.

(6) A public accommodation shall take whatever steps may be necessary to ensure that no individual with a disability is excluded, denied services, segregated, or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the public accommodation can demonstrate that taking those steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or would result in an undue burden on the public accommodation.

(7) A public accommodation shall not be required to provide to individuals with disabilities personal devices, such as wheelchairs, eyeglasses, hearing aids or readers for personal use or study, or personal services to assist with feeding, toileting, or dressing.

(8) Notwithstanding the provisions of this section, if a place of public accommodation has an architectural or communication barrier, in order to comply with this section, the public accommodation shall remove the barrier, if removal is readily achievable, or shall make its goods, services, facilities, privileges, advantages, or accommodations available through alternative methods, if those alternative methods are readily achievable. Nothing in this subsection shall be construed to alter architectural barrier removal requirements under the federal Americans with Disabilities Act¹ and its regulations as they relate to governmental entities.

(9) Any public accommodation that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or post-secondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

(d) This section shall not prohibit an owner or operator of an inn, hotel, motel, or other establishment which provides lodging to transient guests, and which has five or fewer rooms for rent or hire, from restricting such accommodation on the basis of sex or marital status.

(e) It is a violation of this section for a gas station or other facility which sells gasoline or other motor vehicle fuel for sale to the public to fail to comply with the provisions of [section 4110a](#) of this title.

(f) It is a violation of this section for a public accommodation to fail to comply with the provisions or rules pertaining to public buildings pursuant to 20 V.S.A. chapter 174.

(g) This chapter shall not apply to:

(1) special education claims and issues covered by federal and State special education laws, regulations, and procedures, pursuant to [20 U.S.C. § 1404 et seq.](#) and [16 V.S.A. chapter 101](#); or

(2) an insurer underwriting risks, classifying risks, or administering risks that are based on or are not inconsistent with [8 V.S.A. §§ 4724 and 4084](#) or other applicable State laws.

(h) This section shall not be construed to require a public accommodation to permit an individual to participate in or benefit from the services, facilities, goods, privileges, advantages, and accommodations of that public accommodation when that individual poses a direct threat to the health or safety of others. For the purposes of this subsection, “direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services. In determining whether an individual poses a direct threat to the health or safety of others, a public accommodation shall make an individualized assessment based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence to ascertain:

(1) the nature, duration, and severity of the risk;

(2) the probability that the potential injury will actually occur; and

(3) whether reasonable modifications of policies, practices, or procedures will mitigate the risk.

(i) Nothing in this section shall be construed to prohibit a public accommodation from excluding a person engaged in disruptive behavior which the place of public accommodation has reason to believe is the result of alcohol or illegal drug use.

(j) Notwithstanding any other provision of law, a mother may breastfeed her child in any place of public accommodation in which the mother and child would otherwise have a legal right to be.

(k) A police officer, a firefighter, or a member of a rescue squad, search and rescue squad, first response team, or ambulance corps who is accompanied by a service dog shall be permitted in any place of public accommodation, and the service dog shall be permitted to stay with its master. For the purposes of this subsection, “service dog” means a dog owned, used, or in training by any police or fire department; rescue; or first response squad; ambulance corps; or search and rescue organization for the purposes of locating criminals and lost persons, or detecting illegal substances, explosives, cadavers, accelerants, or school or correctional facility contraband.

(l) Notwithstanding any other provision of law, a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, shall not be required to provide services, accommodations, advantages, facilities, goods, or privileges to an individual if the request for such services, accommodations, advantages, facilities, goods, or privileges is related to the solemnization of a marriage or celebration of a marriage. Any refusal to provide services, accommodations, advantages, facilities, goods, or privileges in

accordance with this subsection shall not create any civil claim or cause of action. This subsection shall not be construed to limit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization from selectively providing services, accommodations, advantages, facilities, goods, or privileges to some individuals with respect to the solemnization or celebration of a marriage but not to others.

Credits

1987, No. 74, § 1; 1991, No. 48, § 3; 1991, Adj. Sess., No. 135, § 11; 1991, Adj. Sess., No. 243, §§ 3, 4; 2001, Adj. Sess., No. 117, § 2; 2003, No. 17, §§ 1, 2; 2007, No. 41, § 14, eff. July 1, 2007; 2009, No. 3, § 11, eff. Sept. 1, 2009; 2013, No. 31, § 10, eff. July 1, 2013; 2015, No. 23, § 144, eff. July 1, 2015.

[Notes of Decisions \(22\)](#)

Footnotes

1 [42 U.S.C.A. § 12101 et seq.](#)

9 V.S.A. § 4502, VT ST T. 9 § 4502

The statutes are current through Acts of the Regular Session of the 2019-2020 Vermont General Assembly (2019). Statutes are subject to change as determined by the Vermont Legislative Council.