

CHAPTER 337
HUMAN RIGHTS ACT
SUBCHAPTER 1
GENERAL PROVISIONS

§4551. Title

This Act may be known and cited as the Maine Human Rights Act. [PL 1971, c. 501, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW).

§4552. Policy

To protect the public health, safety and welfare, it is declared to be the policy of this State to keep continually in review all practices infringing on the basic human right to a life with dignity, and the causes of these practices, so that corrective measures may, where possible, be promptly recommended and implemented, and to prevent discrimination in employment, housing, education, extension of credit or access to public accommodations on account of an individual's actual or perceived race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry or national origin and in employment, extension of credit and access to public accommodations on the basis of age; and in employment and housing on the basis of familial status; and in employment because of the previous assertion of a claim or right against a prior employer under former Title 39 or Title 39-A and because of protected activity under Title 26, chapter 7, subchapter 5-B; and to prevent discrimination or retaliation on the basis of an assertion of rights under this Act or interference with an individual's right to be free from discrimination prohibited under this Act. [PL 2021, c. 366, §1 (AMD).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1973, c. 347, §1 (AMD). PL 1973, c. 705, §1 (AMD). PL 1975, c. 355, §1 (AMD). PL 1975, c. 358, §1 (AMD). PL 1975, c. 770, §28 (RPR). PL 1987, c. 478, §1 (AMD). PL 1989, c. 245, §1 (AMD). PL 1991, c. 99, §1 (AMD). PL 1993, c. 327, §1 (AMD). PL 2005, c. 10, §1 (AMD). PL 2021, c. 366, §1 (AMD).

§4553. Definitions

As used in this Act, unless the context or subchapter otherwise indicates, the following words have the following meanings. [PL 1995, c. 393, §1 (AMD).]

1. Commission. "Commission" means the Maine Human Rights Commission established by this Act.

[PL 1971, c. 501, §1 (NEW).]

1-A. Commercial facilities. "Commercial facilities" means facilities that are intended for nonresidential use.

[PL 1995, c. 393, §2 (NEW).]

1-B. Covered entity. For purposes of subchapter 3, "covered entity" means an employer, employment agency, labor organization or joint labor-management committee. For purposes of subchapter 5, "covered entity" means any applicable private entity or public entity.

[PL 2019, c. 464, §1 (AMD).]

1-C. Direct threat. For purposes of subchapter 3, "direct threat" means a significant risk to the health or safety of others that can not be eliminated by reasonable accommodation.

[PL 2019, c. 464, §1 (AMD).]

1-D. Aggrieved person. "Aggrieved person" includes any person who claims to have been subject to unlawful discrimination on the basis of protected class status, including discrimination based on the person's known relationship or association with a member of a protected class and discrimination on the basis of perceived protected class status. "Aggrieved person" also includes any person who claims to have been injured by unlawful housing discrimination.

[PL 2019, c. 464, §1 (AMD).]

1-E. Complainant. "Complainant" means a person who files a complaint under section 4611.

[PL 2019, c. 464, §1 (AMD).]

1-F. Conciliation. "Conciliation" means the attempted resolution after a finding by the commission that unlawful discrimination has occurred of issues raised by a complaint filed under section 4611 or by an investigation of such a complaint through informal negotiations involving the complainant, the respondent and the commission.

[PL 2019, c. 464, §1 (AMD).]

1-G. Conciliation agreement. "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

[PL 2011, c. 613, §4 (NEW); PL 2011, c. 613, §29 (AFF).]

1-H. Assistance animal. "Assistance animal" means, for the purposes of subchapter 4:

A. An animal that has been determined necessary for an individual with a physical or mental disability to mitigate the effects of a physical or mental disability by a physician, psychologist, physician assistant, nurse practitioner, licensed social worker, licensed professional counselor or other licensed health professional with knowledge of the disability-related need for an assistance animal; or [PL 2019, c. 464, §1 (AMD).]

B. An animal individually trained to do work or perform tasks for the benefit of an individual with a physical or mental disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals who are deaf or hard of hearing to intruders or sounds, providing reasonable protection or rescue work, pulling a wheelchair or retrieving dropped items. [PL 2015, c. 457, §1 (NEW).]

[PL 2019, c. 464, §1 (AMD).]

2. Discriminate. "Discriminate" includes, without limitation, segregate, separate or subject to harassment.

For purposes of subchapter 3, "discriminate" also includes:

A. Limiting, segregating or classifying a job applicant or employee in a way that adversely affects the opportunities or status of the applicant or employee because of the protected class of the applicant or employee; [PL 2019, c. 464, §1 (AMD).]

B. Participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee to the discrimination prohibited by this Act. A relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity or an organization providing training and apprenticeship programs; [PL 2019, c. 464, §1 (AMD).]

C. Utilizing standards, criteria or methods of administration:

(1) That have the effect of discrimination on the basis of protected class status; or

(2) That perpetuate discrimination on the basis of protected class status by others who are subject to common administrative control; [PL 2019, c. 464, §1 (AMD).]

D. Excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known protected class status of an individual with whom the qualified individual is known to have a relationship or association; [PL 2019, c. 464, §1 (AMD).]

E. Not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless the covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the covered entity; [PL 1995, c. 393, §3 (NEW).]

F. Denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if the denial is based on the need of the covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant; [PL 1995, c. 393, §3 (NEW).]

G. Using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual or a class of individuals based on their protected class status unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and [PL 2019, c. 464, §1 (AMD).]

H. Failing to select and administer tests concerning employment in the most effective manner to ensure that, when the test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills, aptitude or any other factor of the applicant or employee that the test purports to measure, rather than reflecting the impaired sensory, manual or speaking skills of the employee or applicant, except when the skills are the factors that the test purports to measure. [PL 1995, c. 393, §3 (NEW).]

[PL 2019, c. 464, §1 (AMD).]

2-A. Educational institution. "Educational institution" means any public school or educational program, any public postsecondary institution, any private school or educational program approved for tuition purposes and the governing body of each such school or program.

[PL 2023, c. 188, §1 (AMD).]

3. Employee. "Employee" means an individual employed by an employer. "Employee" does not include any individual employed by that individual's parents, spouse or child, except for purposes of disability-related discrimination, in which case the individual is considered to be an employee.

[PL 1995, c. 393, §5 (AMD).]

4. Employer. "Employer" includes any person in this State employing any number of employees, whatever the place of employment of the employees, and any person outside this State employing any number of employees whose usual place of employment is in this State; any person acting in the interest of any employer, directly or indirectly, such that the person's actions are considered the actions of the employer for purposes of liability; and labor organizations, whether or not organized on a religious, fraternal or sectarian basis, with respect to their employment of employees. "Employer" does not include a religious or fraternal corporation or association, not organized for private profit and in fact not conducted for private profit, with respect to employment of its members of the same religion, sect or fraternity, except for purposes of disability-related discrimination, in which case the corporation or association is considered to be an employer.

[PL 2019, c. 464, §1 (AMD).]

5. Employment agency. "Employment agency" includes any person undertaking with or without compensation to procure opportunities to work, or to procure, recruit, refer or place employees; it includes, without limitation, placement services, training schools and centers, and labor organizations,

to the extent that they act as employee referral sources; and it includes any agent of such person acting in the interest of the person such that the agent's actions are considered the actions of the employment agency for purposes of liability.
[PL 2019, c. 464, §1 (AMD).]

5-A. Familial status. "Familial status" means a family unit that contains:

A. One or more individuals who have not attained 18 years of age and are living with a parent or another person having legal custody of the individual or individuals or the designee of the parent or other person having custody with the written permission of the parent or other person; or [PL 2021, c. 366, §2 (AMD).]

B. [PL 2021, c. 366, §2 (RP).]

B-1. One or more individuals 18 years of age or older who lack the ability to meet essential requirements for physical health, safety or self-care because the individual or individuals are unable to receive and evaluate information or make or communicate decisions. [PL 2021, c. 366, §2 (NEW).]

The protections afforded against discrimination on the basis of familial status apply to any person who is pregnant or who is in the process of securing legal custody of any individual who has not attained 18 years of age.

[PL 2021, c. 366, §2 (AMD).]

5-B. Family. "Family" includes, but is not limited to, a single individual.
[PL 2011, c. 613, §5 (NEW); PL 2011, c. 613, §29 (AFF).]

5-C. Gender identity. "Gender identity" means the gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual's assigned sex at birth.

[PL 2019, c. 464, §1 (NEW).]

6. Housing accommodation. "Housing accommodation" includes any building or structure or portion thereof, or any parcel of land, developed or undeveloped, that is occupied, or is intended to be occupied or to be developed for occupancy, for residential purposes.

A. [PL 2011, c. 613, §6 (RP); PL 2011, c. 613, §29 (AFF).]

B. [PL 2011, c. 613, §6 (RP); PL 2011, c. 613, §29 (AFF).]

C. [PL 2011, c. 613, §6 (RP); PL 2011, c. 613, §29 (AFF).]

[PL 2011, c. 613, §6 (AMD); PL 2011, c. 613, §29 (AFF).]

6-A. Normal retirement age. "Normal retirement age" means the specified age, the years of service requirement or any age and years of service combination at which a member may become eligible for retirement benefits. This subsection may not be construed to require the mandatory retirement of a member or to deny employment to any person based solely on that person's normal retirement age.

[PL 2005, c. 10, §2 (AMD).]

7. Person. "Person" includes one or more individuals, partnerships, associations, organizations, corporations, municipal corporations, legal representatives, trustees, trustees in bankruptcy, receivers and other legal representatives, labor organizations, mutual companies, joint-stock companies and unincorporated organizations and includes the State and all agencies thereof.

[PL 2011, c. 613, §7 (AMD); PL 2011, c. 613, §29 (AFF).]

7-A. Physical or mental disability. "Physical or mental disability" has the meaning set forth in section 4553-A.

[PL 2007, c. 385, §1 (RPR).]

7-B. Person with physical or mental disability.

[PL 2007, c. 385, §2 (RP).]

8. Place of public accommodation. "Place of public accommodation" means a facility, operated by a public entity or private entity, whose operations fall within at least one of the following categories:

- A. An inn, hotel, motel or other place of lodging, whether conducted for the entertainment or accommodation of transient guests or those seeking health, recreation or rest; [PL 1995, c. 393, §7 (NEW).]
- B. A restaurant, eating house, bar, tavern, buffet, saloon, soda fountain, ice cream parlor or other establishment serving or selling food or drink; [PL 1995, c. 393, §7 (NEW).]
- C. A motion picture house, theater, concert hall, stadium, roof garden, airdrome or other place of exhibition or entertainment; [PL 1995, c. 393, §7 (NEW).]
- D. An auditorium, convention center, lecture hall or other place of public gathering; [PL 1995, c. 393, §7 (NEW).]
- E. A bakery, grocery store, clothing store, hardware store, shopping center, garage, gasoline station or other sales or rental establishment; [PL 1995, c. 393, §7 (NEW).]
- F. A laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, dispensary, clinic, bathhouse or other service establishment; [PL 1995, c. 393, §7 (NEW).]
- G. All public conveyances operated on land or water or in the air as well as a terminal, depot or other station used for specified public transportation; [PL 1995, c. 393, §7 (NEW).]
- H. A museum, library, gallery or other place of public display or collection; [PL 1995, c. 393, §7 (NEW).]
- I. A park, zoo, amusement park, race course, skating rink, fair, bowling alley, golf course, golf club, country club, gymnasium, health spa, shooting gallery, billiard or pool parlor, swimming pool, seashore accommodation or boardwalk or other place of recreation, exercise or health; [PL 1995, c. 393, §7 (NEW).]
- J. A nursery, elementary, secondary, undergraduate or postgraduate school or other place of education; [PL 1995, c. 393, §7 (NEW).]
- K. A day care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service center establishment; [PL 2019, c. 464, §1 (AMD).]
- L. Public elevators of buildings occupied by 2 or more tenants or by the owner and one or more tenants; [PL 1995, c. 393, §7 (NEW).]
- M. A municipal building, courthouse, town hall or other establishment of the State or a local government; and [PL 1995, c. 393, §7 (NEW).]
- N. Any establishment that in fact caters to, or offers its goods, facilities or services to, or solicits or accepts patronage from, the general public. [PL 1995, c. 393, §7 (NEW).]

When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this subchapter, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for the residential purposes is covered by this subchapter. The covered portion of the residence extends to those elements used to enter the place of public accommodation, and those exterior and interior portions of the residence available to or used by customers or clients, including rest rooms.

[PL 2019, c. 464, §1 (AMD).]

8-A. Private entity. "Private entity" means any entity other than a public entity.

[PL 1995, c. 393, §8 (NEW).]

8-B. Public accommodation. "Public accommodation" means a public entity or private entity that owns, leases, leases to or operates a place of public accommodation.

[PL 2019, c. 464, §1 (AMD).]

8-C. Public entity. "Public entity" means:

A. The State or any local government; [PL 1995, c. 393, §8 (NEW).]

B. Any department, agency, special purpose district or other instrumentality of the State, 2 or more states or a local government; and [PL 1995, c. 393, §8 (NEW).]

C. A state, local or private commuter authority as defined in the federal Rail Passenger Service Act. [PL 2019, c. 464, §1 (AMD).]

[PL 2019, c. 464, §1 (AMD).]

8-D. Qualified individual with a disability. "Qualified individual with a disability" applies to only:

A. Subchapter 3 (employment). [PL 2023, c. 489, §1 (AMD).]

B. [PL 2023, c. 489, §2 (RP).]

For purposes of subchapter 3, "qualified individual with a disability" means an individual with a physical or mental disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires.

[PL 2023, c. 489, §§1-3 (AMD).]

8-E. Pregnancy-related condition. "Pregnancy-related condition" means a known limitation of an employee's ability to perform the functions of a job due to pregnancy, childbirth or related medical conditions, including but not limited to lactation.

[PL 2019, c. 490, §1 (NEW).]

REVISOR'S NOTE: (Subsection 8-E as enacted by PL 2019, c. 464, §1 is REALLOCATED TO TITLE 5, SECTION 4553, SUBSECTION 8-F)

8-F. (REALLOCATED FROM T. 5, §4553, sub-§8-E) Protected class. "Protected class" means a class of individuals protected from unlawful discrimination under this Act.

[PL 2019, c. 464, §1 (NEW); RR 2019, c. 1, Pt. A, §5 (RAL).]

8-G. Protective hairstyle. "Protective hairstyle" includes braids, twists and locks.

[PL 2021, c. 643, §1 (NEW).]

8-H. Race, for purposes of subchapters 3 and 5-B. "Race," for the purposes of subchapters 3 and 5-B, includes traits associated with race, including hair texture, Afro hairstyles and protective hairstyles.

[PL 2021, c. 643, §2 (NEW).]

9. Real estate broker and sales agent. "Real estate broker" and "real estate sales agent" have the same meanings as in Title 32, sections 13198 and 13200 respectively; but include all persons meeting those definitions, whether they are licensed or required to be licensed.

[PL 2019, c. 464, §1 (AMD).]

9-A. Reasonable accommodation. For purposes of subchapter 3, "reasonable accommodation" may include, but is not limited to:

A. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and [PL 1995, c. 393, §8 (NEW).]

B. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, leaves of absence, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters and other similar accommodations for individuals with disabilities. [PL 2019, c. 464, §1 (AMD).]

[PL 2019, c. 464, §1 (AMD).]

9-B. Undue hardship; undue burden. "Undue hardship" or "undue burden" means an action requiring undue financial or administrative hardship. In determining whether an action would result in an undue hardship, factors to be considered include:

A. The nature and cost of the accommodation needed under this Act; [PL 1995, c. 393, §8 (NEW).]

B. The overall financial resources of the facility or facilities involved in the action, the number of persons employed at the facility, the effect on expenses and resources or the impact otherwise of the action upon the operation of the facility; [PL 1995, c. 393, §8 (NEW).]

C. The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees and the number, type and location of its facilities; [PL 1995, c. 393, §8 (NEW).]

D. The type of operation or operations of the covered entity, including the composition, structure and functions of the work force of the entity, the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity; [PL 1995, c. 393, §8 (NEW).]

E. All the resources available to meet the costs of the accommodation, including any government funding or other grants available for making public accommodations and places of employment accessible; [PL 1995, c. 393, §8 (NEW).]

F. The extent to which current costs of accommodations have been minimized by past efforts to provide equal access to persons with disabilities; [PL 1995, c. 393, §8 (NEW).]

G. The extent to which resources spent on improving inaccessible equipment or service could have been spent on making an accommodation so that service or equipment is accessible to individuals with disabilities, as well as to individuals without disabilities; [PL 1995, c. 393, §8 (NEW).]

H. Documented good faith efforts to explore less restrictive or less expensive alternatives; [PL 1995, c. 393, §8 (NEW).]

I. The availability of equipment and technology for the accommodation; [PL 1995, c. 393, §8 (NEW).]

J. Whether an accommodation would result in a fundamental change in the nature of the public accommodation; [PL 1995, c. 393, §8 (NEW).]

K. Efforts to minimize costs by spreading costs over time; and [PL 1995, c. 393, §8 (NEW).]

L. The extent to which resources saved by failing to make an accommodation for persons who have disabilities could have been saved by cutting costs in equipment or services for the general public. [PL 1995, c. 393, §8 (NEW).]

"Undue hardship" or "undue burden" is a higher standard than "readily achievable" and requires a greater level of effort on the part of the public accommodation.

[PL 2019, c. 464, §1 (AMD).]

9-C. Sexual orientation. "Sexual orientation" means a person's actual or perceived heterosexuality, bisexuality or homosexuality.

[PL 2023, c. 41, §1 (AMD).]

9-D. Service animal.

[PL 2011, c. 369, §1 (RP).]

9-E. Service animal. "Service animal" means:

A. [PL 2015, c. 457, §2 (RP).]

B. For the purposes of subchapter 5, a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of such work or tasks include, but are not limited to, assisting an individual who is totally or partially blind with navigation and other tasks, alerting an individual who is deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items such as medicine or a telephone, providing physical support and assistance with balance and stability to an individual with a mobility disability and helping a person with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks for the purposes of this definition. [PL 2011, c. 369, §2 (NEW).]

[PL 2015, c. 457, §2 (AMD).]

9-F. Rent. "Rent" includes to lease, to sublease, to let or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

[PL 2011, c. 613, §8 (NEW); PL 2011, c. 613, §29 (AFF).]

9-G. Respondent. "Respondent" means a person accused of unlawful discrimination in a complaint filed under section 4611.

[PL 2019, c. 464, §1 (AMD).]

10. Unlawful discrimination. "Unlawful discrimination" includes:

A. Unlawful employment discrimination as defined and limited by subchapter 3; [PL 2019, c. 464, §1 (AMD).]

B. Unlawful housing discrimination as defined and limited by subchapter 4; [PL 2019, c. 464, §1 (AMD).]

C. Unlawful public accommodations discrimination as defined by subchapter 5; [PL 2019, c. 464, §1 (AMD).]

D. Aiding, abetting, inciting, compelling or coercing another to do any of such types of unlawful discrimination; obstructing or preventing any person from complying with this Act or any order issued in this subsection; attempting to do any act of unlawful discrimination; and punishing or penalizing, or attempting to punish or penalize, any person for seeking to exercise any of the civil rights declared by this Act or for complaining of a violation of this Act or for testifying in any proceeding brought in this subsection; [PL 1983, c. 578, §2 (AMD).]

E. In determining whether a person is acting as an agent or employee of another person so as to make such other person responsible for that person's acts, the question of whether the specific acts performed were actually authorized or subsequently ratified is not controlling; [PL 2005, c. 10, §4 (AMD).]

F. Unlawful educational discrimination as defined and limited by subchapter 5-B; [PL 2023, c. 489, §4 (AMD).]

G. Discrimination in employment, housing, public accommodation, credit and educational opportunity on the basis of sexual orientation or gender identity, except that a religious corporation, association or organization that does not receive public funds is exempt from this provision with respect to:

- (1) Employment, as is more fully set forth in section 4553, subsection 4 and section 4573-A;
- (2) Housing; and
- (3) Educational opportunity.

Any for-profit organization owned, controlled or operated by a religious association or corporation and subject to the provisions of the United States Internal Revenue Code of 1986, 26 United States Code, Section 511(a) is not covered by the exemptions set forth in this paragraph; and [PL 2023, c. 489, §5 (AMD).]

H. Unlawful discrimination by public entities as described in section 4630. [PL 2023, c. 489, §6 (NEW).]

[PL 2023, c. 489, §§4-6 (AMD).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1973, c. 415, §1 (AMD). PL 1975, c. 182, §1 (AMD). PL 1975, c. 358, §2 (AMD). PL 1979, c. 350, §1 (AMD). PL 1983, c. 437, §1 (AMD). PL 1983, c. 578, §§1,2 (AMD). PL 1987, c. 478, §2 (AMD). PL 1989, c. 245, §2 (AMD). PL 1991, c. 99, §2 (AMD). PL 1991, c. 109 (AMD). PL 1995, c. 393, §§1-8 (AMD). RR 1999, c. 2, §2 (COR). PL 2005, c. 10, §§2-6 (AMD). PL 2007, c. 385, §§1, 2 (AMD). PL 2007, c. 664, §1 (AMD). PL 2011, c. 369, §§1, 2 (AMD). PL 2011, c. 613, §§1-9 (AMD). PL 2011, c. 613, §29 (AFF). PL 2015, c. 457, §§1, 2 (AMD). PL 2019, c. 464, §1 (AMD). PL 2019, c. 490, §1 (AMD). RR 2019, c. 1, Pt. A, §5 (COR). PL 2021, c. 366, §§2, 3 (AMD). PL 2021, c. 643, §§1, 2 (AMD). PL 2023, c. 41, §1 (AMD). PL 2023, c. 188, §1 (AMD). PL 2023, c. 489, §§1-6 (AMD).

§4553-A. Physical or mental disability

1. Physical or mental disability, defined. "Physical or mental disability" means:

A. A physical or mental impairment that:

- (1) Substantially limits one or more of a person's major life activities;
- (2) Significantly impairs physical or mental health; or
- (3) Requires special education, vocational rehabilitation or related services; [PL 2007, c. 385, §3 (NEW).]

B. Without regard to severity unless otherwise indicated: absent, artificial or replacement limbs, hands, feet or vital organs; alcoholism; amyotrophic lateral sclerosis; bipolar disorder; blindness or abnormal vision loss; cancer; cerebral palsy; chronic obstructive pulmonary disease; Crohn's disease; cystic fibrosis; deafness or abnormal hearing loss; diabetes; substantial disfigurement; epilepsy; heart disease; HIV or AIDS; kidney or renal diseases; lupus; major depressive disorder; mastectomy; intellectual disability; multiple sclerosis; muscular dystrophy; paralysis; Parkinson's disease; pervasive developmental disorders; rheumatoid arthritis; schizophrenia; and acquired brain injury; [PL 2011, c. 542, Pt. A, §3 (AMD).]

C. With respect to an individual, having a record of any of the conditions in paragraph A or B; or [PL 2007, c. 385, §3 (NEW).]

D. With respect to an individual, being regarded as having or likely to develop any of the conditions in paragraph A or B. [PL 2007, c. 385, §3 (NEW).]

[PL 2011, c. 542, Pt. A, §3 (AMD).]

2. Additional terms. For purposes of this section:

A. The existence of a physical or mental disability is determined without regard to the ameliorative effects of mitigating measures such as medication, auxiliary aids or prosthetic devices; and [PL 2007, c. 385, §3 (NEW).]

B. "Significantly impairs physical or mental health" means having an actual or expected duration of more than 6 months and impairing health to a significant extent as compared to what is ordinarily experienced in the general population. [PL 2007, c. 385, §3 (NEW).]

[PL 2007, c. 385, §3 (NEW).]

3. Exceptions. "Physical or mental disability" does not include:

A. Pedophilia, exhibitionism, voyeurism, sexual behavior disorders, compulsive gambling, kleptomania, pyromania or tobacco smoking; [PL 2007, c. 385, §3 (NEW).]

B. Any condition covered under section 4553, subsection 9-C; or [PL 2007, c. 385, §3 (NEW).]

C. Psychoactive substance use disorders resulting from current illegal use of drugs, although this may not be construed to exclude an individual who:

(1) Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) Is participating in a supervised rehabilitation program and is no longer engaging in such use;

(3) Is erroneously regarded as engaging in such use, but is not engaging in such use; or

(4) In the context of a reasonable accommodation in employment, is seeking treatment or has successfully completed treatment. [PL 2007, c. 385, §3 (NEW).]

[PL 2007, c. 385, §3 (NEW).]

SECTION HISTORY

PL 2007, c. 385, §3 (NEW). PL 2011, c. 542, Pt. A, §3 (AMD).

§4554. Construction

1. Relationship to other laws. Nothing in this Act may be construed to invalidate or limit the remedies, rights and procedures of any law of any state or political subdivision of any state or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act. Nothing in this Act may be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by subchapter III or in transportation or places of public accommodation covered by subchapter V.

[PL 1995, c. 393, §9 (NEW).]

2. Insurance. Subchapters III and V of this Act may not be construed to prohibit or restrict, with regard to individuals with disabilities:

A. An insurer, hospital, medical service company, health maintenance organization or any agent or entity that administers benefit plans or similar organizations from underwriting risks, classifying risks or administering risks that are based on or not inconsistent with state law; [PL 1995, c. 393, §9 (NEW).]

B. A person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks or administering risks that are based on or not inconsistent with state law; or [PL 1995, c. 393, §9 (NEW).]

C. A person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide employee benefit plan that is not subject to state laws that regulate insurance. [PL 1995, c. 393, §9 (NEW).]

Paragraphs A, B and C may not be used as a subterfuge to evade the requirements of subchapters III and V.

[PL 1995, c. 393, §9 (NEW).]

3. Accommodations and services. Nothing in this Act may be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity or benefit that the individual chooses not to accept.

[PL 1995, c. 393, §9 (NEW).]

4. Physical or mental disability. The definition of "physical or mental disability" in section 4553-A is intended to be interpreted broadly to create greater coverage than under the federal Americans with Disabilities Act of 1990.

[PL 2007, c. 385, §4 (NEW).]

SECTION HISTORY

PL 1995, c. 393, §9 (NEW). PL 2007, c. 385, §4 (AMD).

§4555. Application

(REPEALED)

SECTION HISTORY

PL 1995, c. 393, §10 (NEW). PL 2019, c. 464, §2 (RP).

SUBCHAPTER 2

COMMISSION

§4561. Members

The Maine Human Rights Commission, established by section 12004-G, subsection 15, shall be an independent commission of no more than 5 members. No more than 3 of the members may be of the same political party. The members shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and confirmation by the Legislature. The Governor shall designate one member to be the chair. [PL 1989, c. 503, Pt. B, §21 (AMD).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1975, c. 771, §88 (AMD). PL 1983, c. 812, §32 (RPR). PL 1987, c. 709, §1 (AMD). PL 1989, c. 503, §B21 (AMD).

§4562. Terms of office

The members of the commission must be appointed for terms of 5 years each, except that of those first appointed, the Governor shall designate one whose term is only one year, one whose term is only 2 years, one whose term is only 3 years and one whose term is only 4 years. [RR 2023, c. 2, Pt. B, §64 (COR).]

An individual appointed to fill a vacancy occurring otherwise than by expiration of term must be appointed only for the unexpired term of the member whom the individual succeeds. [RR 2023, c. 2, Pt. B, §64 (COR).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). RR 2023, c. 2, Pt. B, §64 (COR).

§4563. Quorum

Three members of the commission shall constitute a quorum. A vacancy in the commission shall not impair the power of the remaining members to exercise all the powers of the commission. [PL 1971, c. 501, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW).

§4564. Compensation; reappointment

Each member of the commission shall be compensated as provided in chapter 379. All members of the commission shall be eligible for reappointment subject to section 4561. [PL 1987, c. 709, §2 (AMD).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1983, c. 812, §33 (AMD). PL 1987, c. 709, §2 (AMD).

§4565. Removal from office

Any member of the commission may be removed by the Governor for inefficiency, neglect of duty, misconduct or malfeasance in office, after being given a written statement of the charges. [PL 1975, c. 771, §89 (AMD).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1975, c. 771, §89 (AMD).

§4566. Powers and duties of the commission

The commission has the duty of investigating all conditions and practices within the State which allegedly detract from the enjoyment, by each inhabitant of the State, of full human rights and personal dignity. Without limiting the generality of the foregoing, it has the duty of investigating all forms of invidious discrimination, whether carried out legally or illegally, and whether by public agencies or private persons. Based on its investigations, it has the further duty to recommend measures calculated to promote the full enjoyment of human rights and personal dignity by all the inhabitants of this State. [PL 1975, c. 182, §2 (AMD).]

To carry out these duties, the commission shall have the power: [PL 1971, c. 501, §1 (NEW).]

1. Office. To establish and maintain a principal office, and such other offices within the State as it may deem necessary;
[PL 1971, c. 501, §1 (NEW).]

2. Meetings. To meet and function at any place within the State;
[PL 1971, c. 501, §1 (NEW).]

3. Personnel. To appoint a full-time executive director and counsel to the commission, not subject to the Civil Service Law, and determine their remuneration; and to appoint, subject to the Civil Service Law, other personnel including, but not limited to, investigators, attorneys, compliance personnel and secretaries, as it shall deem necessary to effectuate the purposes of this Act;
[PL 2019, c. 465, §1 (AMD).]

4. Hearings. To hold hearings, to administer oaths and to take the testimony of any person under oath. There is no executive privilege in such investigations and hearings, but law enforcement officers, prosecution officers and judges of this State and of the United States are privileged from compulsory testimony or production of documents before the commission. Such hearings and testimony may relate to general investigations concerning the effectiveness of this Act and the existence of practices of

discrimination not prohibited by it, as well as to investigations of other alleged infringements upon human rights and personal dignity. The commission may make rules as to the administration of oaths and the holding of preliminary and general investigations by panels of commissioners and by the executive director;

[PL 2019, c. 465, §2 (AMD).]

4-A. Subpoena power. Pursuant to a complaint which has been filed in accordance with section 4611 by a person who has been subject to unlawful discrimination, the commission may issue subpoenas; as provided in subsection 4-B, to compel access to or production of premises, records, documents and other evidence or possible sources of evidence or the appearance of persons, provided that there is reasonable cause to believe that those materials or the testimony of the persons are material to the complaint. The commission may not issue subpoenas except as provided in this subsection.

[PL 1977, c. 648, §1 (NEW).]

4-B. Subpoenas; contest of validity. If a subpoena is issued, notice must be given to the person who is alleged to have engaged in the unlawful discrimination. The person upon whom the subpoena is served may contest its validity. A judicial review of the subpoenas is permissible in any Superior Court;

[PL 1993, c. 303, §1 (AMD).]

5. Services. To utilize voluntary and uncompensated services of private individuals and organizations as may from time to time be offered and needed;

[PL 1971, c. 501, §1 (NEW).]

6. Advisory groups. To create local or statewide advisory agencies and conciliation councils to aid in effectuating the purposes of this Act. The commission may study or may empower these agencies and councils to study the problems of discrimination in all or specific fields of human relationships when based on protected class characteristics, membership or status, and foster good will among the groups and elements of the population of the State. Agencies and councils may make recommendations to the commission for the development of policies and procedures. Advisory agencies and conciliation councils created by the commission must be composed of representative citizens serving without pay, but with reimbursement for actual and necessary traveling expenses;

[PL 2019, c. 465, §3 (AMD).]

7. Rules and regulations. To adopt, amend and rescind rules and regulations to effectuate this Act, such adoption, amendment and rescission to be made in the manner provided by chapter 375, subchapter 2. Rules adopted to implement section 4553-A are major substantive rules as defined in chapter 375, subchapter 2-A;

[PL 2007, c. 385, §5 (AMD).]

8. Appearance. To appear in court and before other administrative bodies by its own attorneys;

[PL 1971, c. 501, §1 (NEW).]

9. Notices and forms. To require the posting of notices or the adoption of forms by businesses subject to this Act, to effectuate the purposes of this Act;

[PL 1971, c. 501, §1 (NEW).]

10. Publications. To publish results of investigations and research to promote good will and minimize or eliminate discrimination based on protected class characteristics, membership or status;

[PL 2019, c. 465, §4 (AMD).]

11. Reports. To report to the Legislature and the Governor at least once a year describing the investigations, proceedings and hearings the commission has conducted and the outcome and other work performed by the commission, and to make recommendations for further legislation or executive action concerning abuses and discrimination based on protected class characteristics, membership or status, or other infringements on human rights or personal dignity; and

[PL 2019, c. 465, §5 (AMD).]

12. Other acts. To do such other things as are set out in the other subchapters, and everything reasonably necessary to perform its duties under this Act.

[PL 1971, c. 501, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1973, c. 347, §§2-4 (AMD). PL 1973, c. 705, §§2-4 (AMD). PL 1975, c. 182, §2 (AMD). PL 1975, c. 355, §§2-4 (AMD). PL 1975, c. 358, §§3-5 (AMD). PL 1975, c. 770, §§29-31 (AMD). PL 1977, c. 648, §1 (AMD). PL 1977, c. 674, §8 (AMD). PL 1977, c. 694, §29 (AMD). PL 1983, c. 550, §1 (AMD). PL 1985, c. 785, §B36 (AMD). PL 1991, c. 99, §§3-5 (AMD). PL 1993, c. 303, §1 (AMD). PL 2005, c. 10, §§7-9 (AMD). PL 2007, c. 385, §5 (AMD). PL 2019, c. 465, §§1-5 (AMD).

§4566-A. Certification and conformity with rules

1. Certification of state law. The commission shall take all steps required under 29 Code of Federal Regulations, Part 36, Subpart F to request federal certification that the State's laws concerning accessibility and usability of places of public accommodation meet or exceed the minimum requirements of the federal Americans with Disabilities Act of 1990. These steps include issuing public notice of an intent to file, conducting a public hearing on record and preparing and filing with the United States Department of Justice the request for certification. If the commission determines that no significant portion of the law is certifiable, the commission may cease its attempts to obtain certification and shall report its determinations to the joint standing committee of the Legislature having jurisdiction over judiciary matters. The report must include recommendations on changes to the law as necessary to achieve certification of a significant portion of the law.

[PL 1995, c. 393, §11 (NEW).]

2. Conformity of rules relating to special use areas. The commission shall amend its rules relating to accessibility of places of public accommodation to include standards contained in the regulations adopted pursuant to Titles I, II, and III of the Americans with Disabilities Act of 1990 and the federal Americans with Disabilities Act of 1990 Accessibility Guidelines, 29 Code of Federal Regulations, Part 36, Subpart F, relating to restaurants and cafeterias, medical care facilities, business and mercantile establishments, libraries, accessible transient lodging and other places of public accommodation, but only to the extent that those standards provide greater accessibility than any comparable standards contained in current state law or rules.

[PL 1995, c. 393, §11 (NEW).]

SECTION HISTORY

PL 1995, c. 393, §11 (NEW).

SUBCHAPTER 3

FAIR EMPLOYMENT

§4571. Right to freedom from discrimination in employment

The opportunity for an individual to secure employment without discrimination because of race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status is recognized as and declared to be a civil right. [PL 2021, c. 366, §4 (AMD).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1973, c. 347, §5 (AMD). PL 1973, c. 705, §5 (AMD). PL 1975, c. 355, §5 (AMD). PL 1975, c. 358, §6 (AMD). PL 1975, c. 770, §32 (RPR). PL 1991, c. 99, §6 (AMD). PL 2005, c. 10, §10 (AMD). PL 2021, c. 366, §4 (AMD).

§4572. Unlawful employment discrimination

1. Unlawful employment discrimination. It is unlawful employment discrimination, in violation of this Act, except when based on a bona fide occupational qualification:

A. For any employer to fail or refuse to hire or otherwise discriminate against any applicant for employment because of race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status, because of the applicant's previous assertion of a claim or right under former Title 39 or Title 39-A, because of previous actions taken by the applicant that are protected under Title 26, chapter 7, subchapter 5-B or because the applicant sought and received an order of protection under Title 19-A, section 4007; or, because of those reasons, to discharge an employee or discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment or any other matter directly or indirectly related to employment; or, in recruiting of individuals for employment or in hiring them, to utilize any employment agency that the employer knows or has reasonable cause to know discriminates against individuals because of their race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status, because of their previous assertion of a claim or right under former Title 39 or Title 39-A, because of previous actions that are protected under Title 26, chapter 7, subchapter 5-B or because the applicant sought and received an order of protection under Title 19-A, section 4007.

(1) This paragraph does not apply to discrimination governed by Title 39-A, section 353; [PL 2021, c. 366, §5 (AMD); PL 2021, c. 476, §1 (AMD).]

B. For any employment agency to fail or refuse to classify properly, refer for employment or otherwise discriminate against any individual because of race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status, because of the individual's previous assertion of a claim or right under former Title 39 or Title 39-A, because of previous actions taken by the individual that are protected under Title 26, chapter 7, subchapter 5-B or because the individual sought and received an order of protection under Title 19-A, section 4007; or to comply with an employer's request for the referral of job applicants if a request indicates either directly or indirectly that the employer will not afford full and equal employment opportunities to individuals regardless of their race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status, because of previous assertion of a claim or right under former Title 39 or Title 39-A, because of previous actions that are protected under Title 26, chapter 7, subchapter 5-B or because the individual sought and received an order of protection under Title 19-A, section 4007; [PL 2021, c. 366, §5 (AMD); PL 2021, c. 476, §1 (AMD).]

C. For any labor organization to exclude from apprenticeship or membership or to deny full and equal membership rights to any applicant for membership because of race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status, because of the applicant's previous assertion of a claim or right under former Title 39 or Title 39-A, because of previous actions taken by the applicant that are protected under Title 26, chapter 7, subchapter 5-B or because the applicant sought and received an order of protection under Title 19-A, section 4007; or, because of those reasons, to deny a member full and equal membership rights, expel from membership, penalize or otherwise discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, representation, grievances or any other matter directly or indirectly related to membership or employment, whether or not authorized or required by the constitution or bylaws of that labor

organization or by a collective labor agreement or other contract; to fail or refuse to classify properly or refer for employment or otherwise discriminate against any member because of race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status, because of the member's previous assertion of a claim or right under former Title 39 or Title 39-A, because of previous actions taken by the member that are protected under Title 26, chapter 7, subchapter 5-B or because the applicant sought and received an order of protection under Title 19-A, section 4007; or to cause or attempt to cause an employer to discriminate against an individual in violation of this section, except that it is lawful for labor organizations and employers to adopt a maximum age limitation in apprenticeship programs, if the employer or labor organization obtains prior approval from the Maine Human Rights Commission of any maximum age limitation employed in an apprenticeship program. The commission shall approve the age limitation if a reasonable relationship exists between the maximum age limitation employed and a legitimate expectation of the employer in receiving a reasonable return upon the employer's investment in an apprenticeship program. The employer or labor organization bears the burden of demonstrating that such a relationship exists; [PL 2021, c. 366, §5 (AMD); PL 2021, c. 476, §1 (AMD).]

D. For any employer, employment agency or labor organization, prior to employment or admission to membership of any individual, to:

- (1) Elicit or attempt to elicit information directly or indirectly pertaining to race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status, any previous assertion of a claim or right under former Title 39 or Title 39-A, any previous actions that are protected under Title 26, chapter 7, subchapter 5-B or any previous actions seeking and receiving an order of protection under Title 19-A, section 4007;
- (2) Make or keep a record of race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status, any previous assertion of a claim or right under former Title 39 or Title 39-A, any previous actions that are protected under Title 26, chapter 7, subchapter 5-B or any previous actions seeking and receiving an order of protection under Title 19-A, section 4007, except that, in relation to physical or mental disability, when an employer requires a physical or mental examination prior to employment, a privileged record of that examination is permissible if made and kept in compliance with this Act;
- (3) Use any form of application for employment, or personnel or membership blank containing questions or entries directly or indirectly pertaining to race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status, any previous assertion of a claim or right under former Title 39 or Title 39-A, any previous actions that are protected under Title 26, chapter 7, subchapter 5-B or any previous actions seeking and receiving an order of protection under Title 19-A, section 4007. This section does not prohibit any officially recognized government agency from keeping records permitted to be kept under this Act in order to provide free services to individuals requesting rehabilitation or employment assistance;
- (4) Print, publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status, any previous assertion of a claim or right under former Title 39 or Title 39-A, any previous actions that are protected under Title 26, chapter 7, subchapter 5-B or any previous actions seeking and receiving an order of protection under Title 19-A, section 4007; or

(5) Establish, announce or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of the race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status, because of the previous assertion of a claim or right under former Title 39 or Title 39-A, because of previous actions that are protected under Title 26, chapter 7, subchapter 5-B or because of any previous actions seeking and receiving an order of protection under Title 19-A, section 4007, of that group; or [PL 2021, c. 293, Pt. B, §2 (AMD); PL 2021, c. 366, §5 (AMD); PL 2021, c. 476, §1 (AMD).]

E. For an employer, employment agency or labor organization to discriminate in any manner against individuals because they have opposed a practice that would be a violation of this Act or because they have made a charge, testified or assisted in any investigation, proceeding or hearing under this Act. This paragraph does not limit the liability of persons pursuant to section 4633. [PL 2021, c. 366, §5 (AMD).]

[PL 2021, c. 293, Pt. B, §2 (AMD); PL 2021, c. 366, §5 (AMD); PL 2021, c. 476, §1 (AMD).]

2. Unlawful discrimination against qualified individual with a disability. A covered entity may not discriminate against a qualified individual with a disability because of the disability of the individual in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training and other terms, conditions and privileges of employment. A qualified individual with a disability, by reason of that disability, may not be excluded from participation in or be denied the benefits of the services, programs or activities of a public covered entity, or be subjected to discrimination by any such covered entity relating to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training and other terms, conditions and privileges of employment.

A. The prohibition of this subsection against discrimination includes medical examinations and inquiries. [PL 1995, c. 393, §13 (NEW).]

B. Except as provided in paragraph C, a covered entity may not conduct a medical examination or make inquiries of a job applicant as to whether the applicant is an individual with a disability or as to the nature or severity of the disability. A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions. [PL 1995, c. 393, §13 (NEW).]

C. A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of the applicant and may condition an offer of employment on the results of the examination, if:

- (1) All entering employees are subjected to the same examination regardless of disability;
- (2) Any medical and disability information and history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that:
 - (a) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;
 - (b) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and
 - (c) Government officials investigating compliance with this Act are provided relevant information on request; and
- (3) The results of the examination are used only in accordance with this Act. [PL 2019, c. 667, Pt. A, §7 (AMD).]

D. A covered entity may not require a medical examination and may not make inquiries of an employee as to whether the employee is an individual with a disability or as to the nature or severity

of the disability, unless the examination or inquiry is shown to be job-related and consistent with business necessity. [PL 1995, c. 393, §13 (NEW).]

E. A covered entity may conduct voluntary medical examinations, including voluntary medical and disability information and history, that are part of an employee health or wellness program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions. Information obtained under this paragraph regarding the medical and disability information and history of an employee is subject to the requirements of paragraph C, subparagraphs (2) and (3). [PL 2019, c. 667, Pt. A, §8 (AMD).]

F. For purposes of this subsection, a test to determine the illegal use of drugs may not be considered a medical examination.

(1) A covered entity:

(a) May prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(b) May require that employees may not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(c) May require that employees behave in conformance with the requirements established under the federal Drug-free Workplace Act of 1988, 41 United States Code, Section 701 et seq.; and

(d) May hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior to which that entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of the employee; provided that an employer shall make reasonable accommodation to an alcoholic or drug user who is seeking treatment or has successfully completed treatment. [PL 1995, c. 393, §13 (NEW).]

[PL 2019, c. 667, Pt. A, §§7, 8 (AMD).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1973, c. 347, §6 (AMD). PL 1973, c. 705, §6 (AMD). PL 1975, c. 355, §6 (RPR). PL 1975, c. 358, §§7-10 (AMD). PL 1975, c. 770, §33 (RPR). PL 1977, c. 565 (AMD). PL 1987, c. 55, §1 (AMD). PL 1987, c. 559, §B2 (AMD). PL 1987, c. 782, §1 (AMD). PL 1989, c. 251, §1 (AMD). PL 1991, c. 99, §7 (AMD). PL 1991, c. 885, §E7 (AMD). PL 1991, c. 885, §E47 (AFF). PL 1995, c. 393, §§12,13 (AMD). PL 2005, c. 10, §§11,12 (AMD). PL 2019, c. 667, Pt. A, §§7, 8 (AMD). PL 2021, c. 293, Pt. B, §2 (AMD). PL 2021, c. 366, §5 (AMD). PL 2021, c. 476, §1 (AMD).

§4572-A. Unlawful employment discrimination on the basis of sex

1. Sex defined. For the purpose of this Act, the word "sex" includes pregnancy and medical conditions that result from pregnancy.

[PL 2019, c. 490, §2 (AMD).]

2. Pregnant persons who are able to work. It is unlawful employment discrimination in violation of this Act, except where based on a bona fide occupational qualification, for an employer, employment agency or labor organization to treat a pregnant person who is able to work in a different manner from other persons who are able to work.

[PL 2019, c. 490, §2 (AMD).]

2-A. Accommodations for pregnancy-related conditions. Accommodations for pregnancy-related conditions are set forth in this subsection.

A. Nothing in this section may be construed to indicate or deem that a pregnancy-related condition necessarily constitutes a disability. [PL 2019, c. 490, §2 (NEW).]

B. It is unlawful employment discrimination in violation of this Act for an employer, employment agency or labor organization to fail upon request to provide a reasonable accommodation to any employee with a pregnancy-related condition, unless the employer, employment agency or labor organization can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the employer, employment agency or labor organization. [PL 2019, c. 490, §2 (NEW).]

C. Reasonable accommodations for a pregnancy-related condition may include, but are not limited to, providing more frequent or longer breaks; temporary modification in work schedules, seating or equipment; temporary relief from lifting requirements; temporary transfer to less strenuous or hazardous work; and provisions for lactation in compliance with Title 26, section 604. [RR 2019, c. 1, Pt. A, §6 (COR).]

[PL 2019, c. 490, §2 (NEW); RR 2019, c. 1, Pt. A, §6 (COR).]

3. Pregnant persons who are not able to work. It is unlawful employment discrimination in violation of this Act, except where based on a bona fide occupational qualification, for an employer, employment agency or labor organization to treat a pregnant person who is not able to work because of a disability or illness resulting from pregnancy, or from medical conditions that result from pregnancy, in a different manner from other employees who are not able to work because of other disabilities or illnesses.

[PL 2019, c. 490, §2 (AMD).]

4. Employer not responsible for additional benefits. Nothing in this section may be construed to mean that an employer, employment agency or labor organization is required to provide sick leave, a leave of absence, medical benefits or other benefits to a person because of pregnancy or other medical conditions that result from pregnancy, if the employer, employment agency or labor organization does not also provide sick leaves, leaves of absence, medical benefits or other benefits for the employer's other employees and is not otherwise required to provide those leaves or benefits under other state or federal laws. Reasonable accommodations for pregnancy-related conditions are not additional benefits.

[PL 2019, c. 490, §2 (AMD).]

5. Small business exception.

[PL 1985, c. 119 (RP).]

SECTION HISTORY

PL 1979, c. 79 (NEW). PL 1985, c. 119 (AMD). PL 1995, c. 393, §14 (AMD). PL 2019, c. 490, §2 (AMD). RR 2019, c. 1, Pt. A, §6 (COR).

§4573. Not unlawful employment discrimination

It shall not be unlawful employment discrimination: [PL 1971, c. 501, §1 (NEW).]

1. Age.

[PL 1979, c. 350, §2 (RP).]

1-A. Age. To discriminate on account of age to:

A. Comply with the state or federal laws relating to the employment of minors; [PL 1979, c. 350, §3 (NEW).]

B. Observe the terms of any bona fide employee benefit plan such as a retirement, pension or insurance plan that does not evade or circumvent the purposes of this chapter and that complies with the Federal Age Discrimination in Employment Act, 29 United States Code, Section 621, as

amended and the federal Americans with Disabilities Act, 42 United States Code, Section 12101, et seq., and federal administrative interpretations provided that:

(1) No employee benefit plan requires or permits any employer to refuse or fail to hire an applicant for employment, including those exempted from the Age Discrimination in Employment Act, 29 United States Code, Section 621, as amended, because of the age of the individual; and

(2) No employee benefit plan requires or permits the denial or termination of employment of any individual including those exempted from the Age Discrimination in Employment Act, 29 United States Code, Section 621, as amended, because of the age of the individual or after completion of a specified number of years of service. [PL 1995, c. 393, §15 (AMD).]

[PL 1995, c. 393, §15 (AMD).]

2. Records. After employment or admission to membership, to make a record of such features of an individual as are needed in good faith for the purpose of identifying the individual, provided the record is intended and used in good faith solely for identification, and not for the purpose of discrimination in violation of this Act. Records regarding physical or mental disability that are collected must be collected and maintained on separate forms and in separate files and be treated as confidential records;

[PL 2019, c. 667, Pt. A, §9 (AMD).]

3. Required records. To record any data required by law, or by the rules and regulations of any state or federal agency, provided the records are recorded and kept in good faith for the purpose of complying with law, and are not used for the purpose of discrimination in violation of this Act;

[PL 1995, c. 393, §17 (AMD).]

4. Discharge of or refusal to hire employee with physical or mental disability.

[PL 1995, c. 393, §18 (RP).]

5. Federal Indian policy. Nothing in this Act may be construed to prohibit any employment policy or action that is permitted under 42 United States Code, Section 2000e-2(i) (1982) of the federal Equal Employment Opportunity Act governing employment of Indians;

[PL 2013, c. 576, §1 (AMD).]

6. Infectious and communicable diseases. Assignment of individuals with an infectious or communicable disease is governed by the following.

A. In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the United States Secretary of Health and Human Services under the federal Americans with Disabilities Act, Title I, Section 103(d)(1), and which can not be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign the individual a job involving food handling. [PL 1995, c. 393, §20 (NEW).]

B. Nothing in this Act may be construed to preempt, modify or amend any state, county or local law, ordinance, rule or regulation applicable to food handling that is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which can not be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissibility published by the United States Secretary of Health and Human Services; and [PL 2013, c. 576, §2 (AMD).]

[PL 2013, c. 576, §2 (AMD).]

7. Veteran preference. For a private employer to apply a voluntary veteran preference, pursuant to Title 26, chapter 7, subchapter 11, to employment decisions regarding hiring, promotion or retention during a reduction in workforce.

[PL 2013, c. 576, §3 (NEW).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1973, c. 347, §7 (AMD). PL 1975, c. 355, §7 (AMD). PL 1975, c. 770, §34 (AMD). PL 1977, c. 580, §14 (AMD). PL 1979, c. 350, §§2,3 (AMD). PL 1991, c. 99, §§8-11 (AMD). PL 1991, c. 484, §§3,4 (AMD). PL 1995, c. 393, §§15-20 (AMD). PL 2013, c. 576, §§1-3 (AMD). PL 2019, c. 667, Pt. A, §9 (AMD).

§4573-A. Defenses

1. General provisions. It is a defense to a charge of discrimination under this subchapter that an alleged application of qualification standards, tests or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual based on protected class status has been shown to be job-related and consistent with business necessity, and such performance can not be accomplished by reasonable accommodation, as required by this subchapter.

[PL 2019, c. 464, §3 (AMD).]

1-A. Qualification standards defined. For the purposes of this section, the term "qualification standards" may include a requirement that an individual does not pose a direct threat to the health or safety of other individuals in the workplace.

[PL 1995, c. 511, §1 (NEW); PL 1995, c. 511, §3 (AFF).]

1-B. Physical or mental disability.

[PL 2019, c. 464, §4 (RP).]

2. Religious entities. This subchapter does not prohibit a religious corporation, association, educational institution or society from giving preference in employment to individuals of its same religion to perform work connected with the carrying on by the corporation, association, educational institution or society of its activities. Under this subchapter, a religious organization may require that all applicants and employees conform to the religious tenets of that organization.

[PL 1995, c. 393, §21 (NEW).]

3. Physical or mental disability. This subchapter does not prohibit an employer from discharging or refusing to hire an individual with a physical or mental disability or subject an employer to any legal liability resulting from the refusal to employ or the discharge of the individual with a physical or mental disability if the employer establishes that the individual, because of the physical or mental disability, is unable to perform job duties or to perform job duties in a manner that would not endanger the health or safety of the individual or others.

[PL 2021, c. 366, §6 (NEW).]

SECTION HISTORY

PL 1995, c. 393, §21 (NEW). PL 1995, c. 511, §1 (AMD). PL 1995, c. 511, §3 (AFF). PL 2019, c. 464, §§3, 4 (AMD). PL 2021, c. 366, §6 (AMD).

§4574. Mandatory retirement age prohibited

1. Definition. As used in this section and section 4573, unless the context otherwise indicates, the following terms shall have the following meanings.

A. "Employer" shall mean any individual or type of organization, including domestic and foreign corporations and partnerships, doing business in the State. [PL 1979, c. 350, §4 (NEW).]

[PL 1979, c. 541, Pt. B, §4 (AMD).]

2. Legislative findings and intent. The Legislature finds that many older Maine citizens are forced out of the work force solely because of their age. The Legislature further finds that many older Maine residents who have been forced out of the work force are fully capable of carrying out the duties and responsibilities required by their employment. Finally, the Legislature finds that many older Maine citizens, because of their years of experience, can make valuable contributions to the work force.

It is the intent of the Legislature that discrimination based on age against any person who seeks employment in the private sector or who is already employed by a private employer shall not be tolerated. It is further the intent of the Legislature to ensure that any older person who seeks employment or wishes to continue employment in the private sector and who is capable of fulfilling the duties and responsibilities of this employment shall be treated like any other person who seeks employment or wishes to continue this employment. Finally, it is the clear and unequivocal intent of the Legislature to prohibit employers in the private sector from requiring employees to retire at a specified age, or after completion of a specified number of years of service.
[PL 1979, c. 350, §4 (NEW).]

3. Unlawful employment discrimination. It shall be unlawful employment discrimination:

A. For any employer to fail or refuse to hire any applicant for employment because of the age of the individual; or [PL 1979, c. 350, §4 (NEW).]

B. For any employer to require or permit, as a condition of employment, any employee to retire at or before a specified age or after completion of a specified number of years of service. [PL 1979, c. 350, §4 (NEW).]

[PL 1979, c. 350, §4 (NEW).]

4. Normal retirement age. This section shall not be construed to prohibit the use of a "normal retirement age," as defined in section 4553, subsection 6-A, provided that normal retirement age and the accrual or awarding of pension or retirement benefits shall not be used in any way to require the retirement of an employee or to deny employment to a person.

[PL 1979, c. 350, §4 (NEW).]

5. Federal requirements. This subchapter shall not be construed to affect or limit any power or duty relating to pension or retirement plans which the United States Government reserves to itself.

[PL 1979, c. 350, §4 (NEW).]

6. Applicability. This section shall apply to all employers in the State.

[PL 1979, c. 350, §4 (NEW).]

SECTION HISTORY

PL 1977, c. 580, §15 (NEW). PL 1979, c. 350, §4 (RPR). PL 1979, c. 541, §B4 (AMD).

§4575. Mandatory retirement age prohibited

1. Legislative findings and intent. The Legislature finds that many older Maine citizens are pushed out of the work force solely because of their age. The Legislature further finds that many older Maine residents who have been pushed out of the work force are fully capable of carrying out the duties and responsibilities required by employment. Finally, the Legislature finds that many older Maine citizens, because of their years of experience, can make valuable contributions to the work force.

It is the intent of the Legislature that discrimination based on age against any person who seeks employment in the public sector or who is already employed by a public employer shall not be tolerated. It is further the intent of the Legislature to ensure that any older person who seeks or wishes to continue employment in the public sector and who is capable of fulfilling the duties and responsibilities of such employment, shall be treated like any other person who seeks or wishes to continue such employment. Finally, it is the clear and unequivocal intent of the Legislature to prohibit employers in the public sector from requiring employees to retire at a specified age or after completion of a specified number of years of service.

[PL 1985, c. 801, §§ 3,7 (NEW).]

2. Criteria and standards. A state department or public school may establish reasonable criteria and standards of job performance to be used for the purpose of determining when employment of its employees should be terminated. Where there is a certified bargaining agent, the establishment of these

criteria and standards may be a subject of collective bargaining. These criteria and standards must be consistent for all employees in the same or similar job classifications, must be applied fairly to all employees regardless of age and must be consistent with the provisions of this Act relating to the employment of persons who are physically and mentally disabled.

[PL 2021, c. 348, §11 (AMD).]

3. Federal requirements. This section shall not be construed to effect or limit any power or duty relating to pension or retirement plans which the United States Government reserves to itself.

[PL 1985, c. 801, §§3,7 (NEW).]

SECTION HISTORY

PL 1985, c. 801, §§3,7 (NEW). PL 2021, c. 348, §11 (AMD).

§4576. Gender equity in school administrative positions

The commission shall promote gender equity in the hiring of public school administrators in cooperation with the Commissioner of Education and investigate all human rights complaints associated with the public school system. [PL 1989, c. 889, §1 (NEW).]

SECTION HISTORY

PL 1989, c. 889, §1 (NEW).

§4577. Compensation history inquiry as evidence of unlawful discrimination

1. Legislative findings and intent. The Legislature finds that despite requirements regarding equal pay having been a part of the laws of Maine since 1965, wage inequality is an ongoing issue in the State. Wage inequality causes substantial harm to the citizens and to the economy of the State. The Legislature finds that when employers base compensation decisions on compensation history of a prospective employee, it directly perpetuates this wage inequality. An employer's knowledge of a prospective employee's compensation history is directly related to the practice of basing compensation decisions on compensation history. It is the intent of the Legislature to promote the payment of equal compensation for comparable work on jobs that have comparable requirements relating to skill, effort and responsibility and to prevent unlawful employment discrimination with respect to compensation.

[PL 2019, c. 35, §1 (NEW).]

2. Evidence of unlawful employment discrimination. Evidence of unlawful employment discrimination under section 4572 and Title 26, section 628 includes, but is not limited to, an employer's inquiring, either directly or indirectly, about the compensation history of a prospective employee from the prospective employee or a current or former employer of the prospective employee or otherwise seeking the compensation history of a prospective employee.

[PL 2019, c. 35, §1 (NEW).]

3. Exceptions. Notwithstanding subsection 2, an employer or employment agency may inquire about or seek compensation history of an employee or prospective employee after an offer of employment that includes all terms of compensation has been negotiated and made to the prospective employee. If an employee or prospective employee has voluntarily disclosed compensation history information, without prompting by the employer or employment agency, the employer or employment agency may seek to confirm or permit a prospective employee to confirm such information prior to an offer of employment. This section does not apply to an employer who inquires about compensation history pursuant to any federal or state law that specifically requires the disclosure or verification of compensation history for employment purposes.

[PL 2019, c. 35, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 35, §1 (NEW).

SUBCHAPTER 4

FAIR HOUSING

§4581. Right to freedom from discrimination in housing; exceptions

The opportunity for an individual to secure housing in accordance with the individual's ability to pay, and without discrimination because of race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin or familial status or because the individual has sought and received an order of protection under Title 19-A, section 4007, is hereby recognized as and declared to be a civil right. [PL 2021, c. 366, §7 (AMD); PL 2021, c. 476, §2 (AMD).]

1. Number of occupants. Nothing in this subchapter limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this subchapter regarding familial status apply with respect to housing for older persons.

[PL 2007, c. 243, §1 (AMD).]

2. Definition. As used in this section, "housing for older persons" means housing:

A. Provided under any state or federal program that the United States Secretary of Housing and Urban Development determines is specifically designed and operated to assist elderly persons as defined in the state or federal program; [PL 2011, c. 613, §10 (AMD); PL 2011, c. 613, §29 (AFF).]

B. Intended for, and solely occupied by, persons 62 years of age or older; or [PL 1989, c. 245, §3 (NEW).]

C. Intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this paragraph, the housing must meet at least the following factors:

(2) That at least 80% of the dwellings are occupied by at least one person 55 years of age or older per unit; and

(3) The publication of, and adherence to, policies and procedures that demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older. [PL 1997, c. 85, §1 (AMD).]

[PL 2011, c. 613, §10 (AMD); PL 2011, c. 613, §29 (AFF).]

3. Requirements. Housing does not fail to meet the requirements for "housing for older persons" by reason of:

A. Persons residing in the housing as of the date of enactment of this subsection who do not meet the requirements of subsection 2, paragraph B or C if new occupants of the housing meet the age requirements of subsection 2, paragraphs B and C; or [PL 2011, c. 613, §10 (AMD); PL 2011, c. 613, §29 (AFF).]

B. Unoccupied units if the units are reserved for occupancy by persons who meet the age requirements of subsection 2, paragraphs B and C. [PL 2011, c. 613, §10 (AMD); PL 2011, c. 613, §29 (AFF).]

[PL 2011, c. 613, §10 (AMD); PL 2011, c. 613, §29 (AFF).]

4. Housing accommodation exceptions. The following exceptions apply in this chapter:

A. This chapter does not prohibit the rental of any dwelling owned, controlled or operated for other than a commercial purpose by a religious corporation to its membership unless such membership

is restricted on account of race, color or national origin; and [PL 2011, c. 613, §10 (NEW); PL 2011, c. 613, §29 (AFF).]

B. Except as provided in section 4581-A, subsection 1, paragraph C and section 4581-A, subsections 2 and 3, this chapter does not apply to:

(1) The rental of a one-family unit of a 2-family dwelling, one unit of which is occupied by the owner; or

(2) The rental of not more than 4 rooms of a one-family dwelling that is occupied by the owner. [PL 2011, c. 613, §10 (NEW); PL 2011, c. 613, §29 (AFF).]

[PL 2011, c. 613, §10 (NEW); PL 2011, c. 613, §29 (AFF).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1973, c. 347, §8 (AMD). PL 1973, c. 705, §7 (AMD). PL 1975, c. 355, §8 (AMD). PL 1975, c. 358, §11 (AMD). PL 1975, c. 770, §35 (RPR). PL 1989, c. 245, §3 (AMD). PL 1991, c. 99, §12 (AMD). PL 1997, c. 85, §1 (AMD). PL 2005, c. 10, §13 (AMD). PL 2007, c. 243, §1 (AMD). PL 2011, c. 613, §10 (AMD). PL 2011, c. 613, §29 (AFF). PL 2021, c. 366, §7 (AMD). PL 2021, c. 476, §2 (AMD).

§4581-A. Unlawful housing discrimination

It is unlawful housing discrimination, in violation of this Act: [PL 2011, c. 613, §11 (NEW); PL 2011, c. 613, §29 (AFF).]

1. Sale or rental of housing and other prohibited practices. For any owner, lessee, sublessee, managing agent or other person having the right to sell or rent or manage a housing accommodation, or any agent of these, to:

A. Make or cause to be made any written or oral inquiry concerning the race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin, familial status or any previous actions seeking and receiving an order of protection under Title 19-A, section 4007 of any prospective purchaser, occupant or tenant of the housing accommodation; [PL 2021, c. 366, §8 (AMD); PL 2021, c. 476, §3 (AMD).]

B. Refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold from any person the housing accommodation because of race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin or familial status or because the person sought and received an order of protection under Title 19-A, section 4007; [PL 2021, c. 366, §8 (AMD); PL 2021, c. 476, §3 (AMD).]

C. Make, print or publish or cause to be made, printed or published any notice, statement or advertisement relating to the sale, rental or lease of the housing accommodation that indicates any preference, limitation or discrimination based upon race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin, familial status or any previous actions seeking and receiving an order of protection under Title 19-A, section 4007 or an intention to make any such preference, limitation or discrimination; [PL 2021, c. 366, §8 (AMD); PL 2021, c. 476, §3 (AMD).]

D. Discriminate against any person because of race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin or familial status or because the person sought and received an order of protection under Title 19-A, section 4007 in the price, terms, conditions or privileges of the sale, rental or lease of any housing accommodations or in the furnishing of facilities or services in connection with any housing accommodations; or [PL 2021, c. 366, §8 (AMD); PL 2021, c. 476, §3 (AMD).]

E. Evict or attempt to evict any tenant of any housing accommodation because of the race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national

origin or familial status of the tenant or because the tenant sought and received an order of protection under Title 19-A, section 4007; [PL 2021, c. 366, §8 (AMD); PL 2021, c. 476, §3 (AMD).]

[PL 2021, c. 366, §8 (AMD); PL 2021, c. 476, §3 (AMD).]

2. Selling, brokering or appraising of housing. For any real estate broker or real estate salesperson, or any agent of these, to:

A. Fail or refuse to show any person a housing accommodation listed for sale, lease or rent because of race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin or familial status or because the person sought and received an order of protection under Title 19-A, section 4007; [PL 2021, c. 366, §9 (AMD); PL 2021, c. 476, §3 (AMD).]

B. Misrepresent, for the purpose of discriminating because of race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin, familial status or any previous actions seeking and receiving an order of protection under Title 19-A, section 4007, the availability or asking price of a housing accommodation listed for sale, lease or rent or for such reason to fail to communicate to the person having the right to sell, rent or lease the housing accommodation any offer for the same made by any applicant; [PL 2021, c. 366, §9 (AMD); PL 2021, c. 476, §3 (AMD).]

C. In any other manner to discriminate against any applicant for a housing accommodation because of race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin or familial status or because the applicant sought and received an order of protection under Title 19-A, section 4007; [PL 2021, c. 366, §9 (AMD); PL 2021, c. 476, §3 (AMD).]

D. Make or cause to be made any written or oral inquiry or record concerning the race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin, familial status or any previous actions seeking and receiving an order of protection under Title 19-A, section 4007 of any applicant for or intended occupant of a housing accommodation; or [PL 2021, c. 366, §9 (AMD); PL 2021, c. 476, §3 (AMD).]

E. Accept for listing any housing accommodation when the person having the right to sell, rent or lease the housing accommodation has directly or indirectly indicated an intention of discriminating among prospective tenants or purchasers on the ground of race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin, familial status or any previous actions seeking and receiving an order of protection under Title 19-A, section 4007, or when the broker or salesperson knows or has reason to know that the person having the right to sell, rent or lease the housing accommodation has made a practice of discrimination since July 1, 1972; [PL 2021, c. 366, §9 (AMD); PL 2021, c. 476, §3 (AMD).]

[PL 2021, c. 366, §9 (AMD); PL 2021, c. 476, §3 (AMD).]

3. Making of loans; other financial assistance. For any person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, whether secured or unsecured, or agent of the person, to:

A. Make or cause to be made any oral or written inquiry concerning the race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin, familial status or any previous actions seeking and receiving an order of protection under Title 19-A, section 4007 of any applicant for financial assistance or of existing or prospective occupants or tenants of housing accommodations; or [PL 2021, c. 366, §10 (AMD); PL 2021, c. 476, §3 (AMD).]

B. Discriminate in the granting of financial assistance, or in the terms, conditions or privileges relating to obtaining or the use of any financial assistance, against any applicant because of race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin, familial status or any previous actions seeking and receiving an order of protection under Title 19-A, section 4007; or [PL 2021, c. 366, §10 (AMD); PL 2021, c. 476, §3 (AMD).] [PL 2021, c. 366, §10 (AMD); PL 2021, c. 476, §3 (AMD).]

4. Receipt of public assistance. For any person furnishing rental premises or public accommodations to refuse to rent or impose different terms of tenancy to any individual who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies, primarily because of the individual's status as recipient. [PL 2011, c. 613, §11 (NEW); PL 2011, c. 613, §29 (AFF).]

SECTION HISTORY

PL 2011, c. 613, §11 (NEW). PL 2011, c. 613, §29 (AFF). PL 2021, c. 366, §§8-10 (AMD). PL 2021, c. 476, §3 (AMD).

§4582. Unlawful housing discrimination

(REPEALED)

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1971, c. 622, §20 (AMD). PL 1973, c. 347, §9 (AMD). PL 1973, c. 705, §8 (AMD). PL 1975, c. 151, §1 (AMD). PL 1975, c. 355, §9 (RPR). PL 1975, c. 358, §12 (AMD). PL 1975, c. 770, §36 (RPR). PL 1983, c. 437, §§2,3 (AMD). PL 1985, c. 638, §1 (AMD). PL 1987, c. 730, §1 (AMD). PL 1989, c. 245, §4 (AMD). PL 1991, c. 99, §§13,14,16,17 (AMD). PL 2005, c. 10, §14 (AMD). PL 2011, c. 613, §12 (RP). PL 2011, c. 613, §29 (AFF).

§4582-A. Unlawful housing discrimination on the basis of disability

It is unlawful housing discrimination, in violation of this Act: [PL 1989, c. 779 (NEW).]

1. Modifications. For any owner, lessor, sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to permit, at the expense of a person with physical or mental disability, reasonable modifications of existing premises occupied or to be occupied by that person if the modifications may be necessary to give that person full enjoyment of the premises, except that, with a rental, the landlord, when it is reasonable to do so, may condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; [PL 2011, c. 613, §13 (AMD); PL 2011, c. 613, §29 (AFF).]

2. Accommodations. For any owner, lessor, sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to make reasonable accommodations in rules, policies, practices or services when those accommodations are necessary to give a person with physical or mental disability equal opportunity to use and enjoy the housing; or [PL 2011, c. 613, §13 (AMD); PL 2011, c. 613, §29 (AFF).]

3. Assistance animals. For any owner, lessor, sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to permit the use of an assistance animal or otherwise discriminate against an individual with a physical or mental disability who uses an assistance animal at the housing accommodation unless it is shown by defense that the assistance animal poses a direct threat to the health or safety of others or the use of the assistance animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the housing accommodation by others. The use of an assistance animal may not be conditioned on the payment of a fee or security deposit, although

the individual with a physical or mental disability is liable for any damage done to the premises or facilities by such an assistance animal.

[PL 2015, c. 457, §3 (AMD).]

SECTION HISTORY

PL 1989, c. 779 (NEW). PL 1991, c. 99, §18 (AMD). PL 2007, c. 243, §§2, 3 (AMD). PL 2007, c. 664, §§2-4 (AMD). PL 2011, c. 613, §13 (AMD). PL 2011, c. 613, §29 (AFF). PL 2015, c. 457, §3 (AMD).

§4582-B. Standards and certification

1. Definition. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Builder" means the applicant for a building permit in a municipality that requires these permits or the owner of the property in a municipality that does not require building permits. [PL 1989, c. 779 (NEW).]

B. "Design professional" means an architect or professional engineer registered to practice under Title 32. [PL 1989, c. 779 (NEW).]

C. "Standards of construction" means the 1986 standards set forth by the American National Standards Institute in the publication "Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," ANSI A 117.1-1986. [PL 1989, c. 779 (NEW).]

D. "Multifamily housing accommodation" means "covered multifamily dwelling" as defined in 42 United States Code, Section 3604. [PL 1989, c. 779 (NEW).]

[PL 1989, c. 779 (NEW).]

2. Applicability. This section applies to multifamily housing accommodations constructed for first occupancy after March 13, 1991.

[PL 1989, c. 779 (NEW).]

3. Standards. Facilities subject to this section must meet the following standards.

A. Doors designed to allow passage into and within all premises within those accommodations must be sufficiently wide to allow passage by a person in a wheelchair. [PL 1989, c. 779 (NEW).]

B. A route accessible to a person in a wheelchair into and through the dwelling unit must exist. [PL 1989, c. 779 (NEW).]

C. Light switches, electrical outlets, thermostats and other environmental controls must be in locations accessible to a person in a wheelchair. [PL 1989, c. 779 (NEW).]

D. Bathroom walls must have reinforcements to accommodate the installation of grab bars. [PL 1989, c. 779 (NEW).]

E. Kitchens and bathrooms must be accessible to and usable by a person in a wheelchair. [PL 1989, c. 779 (NEW).]

[PL 1989, c. 779 (NEW).]

4. Compliance with standards. Compliance with the standards of construction satisfies the requirements of this section.

[PL 1989, c. 779 (NEW).]

5. Certification; inspection. The builder of a facility to which this section applies shall obtain a certification from a design professional that the plans of the facility meet the standards of construction required by this section. Prior to commencing construction of the facility, the builder shall submit the certification to:

A. The municipal authority that reviews plans in the municipality where the facility is to be constructed; or [PL 1989, c. 779 (NEW).]

B. If the municipality where the facility is to be constructed has no authority who reviews plans, the municipal officers of the municipality. [PL 1989, c. 779 (NEW).]

If municipal officials of the municipality where the facility is to be constructed inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with the standards required by this section. The municipal officials shall require the facility inspected to meet the construction standards of this section before the municipal officials permit the facility to be occupied.

[PL 1989, c. 779 (NEW).]

SECTION HISTORY

PL 1989, c. 779 (NEW).

§4582-C. Standards for multifamily and public housing constructed on or after September 1, 2012

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Alteration" means a change to a facility that affects or could affect the usability of the facility or any part of the facility, including, but not limited to, reconstruction, remodeling, rehabilitation, historic restoration, changes or rearrangement in structural parts or elements and changes or rearrangement in the plan configuration of walls and full-height partitions. "Alteration" does not include normal maintenance, decoration and upgrades, including, but not limited to, reroofing, re-siding, painting or wallpapering, replacement of doors or windows, asbestos removal and changes to mechanical and electrical systems unless they affect the usability of the facility. [PL 2011, c. 613, §14 (NEW); PL 2011, c. 613, §29 (AFF).]

B. "Builder" means the applicant for a building permit in a municipality that requires these permits or the owner of the property in a municipality that does not require building permits. [PL 2011, c. 613, §14 (NEW); PL 2011, c. 613, §29 (AFF).]

C. "Covered multifamily dwellings" means:

- (1) Buildings consisting of 4 or more units if such buildings have one or more elevators; and
 - (2) Ground floor units in other buildings consisting of 4 or more units that have no elevators.
- [PL 2011, c. 613, §14 (NEW); PL 2011, c. 613, §29 (AFF).]

D. "Design professional" means an architect or professional engineer registered to practice under Title 32. [PL 2011, c. 613, §14 (NEW); PL 2011, c. 613, §29 (AFF).]

E. "New construction" includes, but is not limited to, the design and construction of facilities for first occupancy or an alteration if the cost of the alteration is 75% or more of the replacement cost of the completed facility. [PL 2011, c. 613, §14 (NEW); PL 2011, c. 613, §29 (AFF).]

F. "Public housing" means any housing that is financed in whole or in part with public funds offering housing accommodations containing 20 or more units. [PL 2011, c. 613, §14 (NEW); PL 2011, c. 613, §29 (AFF).]

G. "Standards of construction" means the most recent American National Standards Institute standards, published as ANSI A 117.1. Departures from particular technical and scoping requirements of ANSI A 117.1 by the use of other methods are permitted where substantially equivalent or greater access to and usability of the facility is provided. [PL 2011, c. 613, §14 (NEW); PL 2011, c. 613, §29 (AFF).]

[PL 2011, c. 613, §14 (NEW); PL 2011, c. 613, §29 (AFF).]

2. Facilities affected. This section applies to new construction of covered multifamily dwellings and new construction and alterations of public housing if the date when the last application for a building permit or permit extension is certified to be complete by a state, county or local government or, in those jurisdictions where the government does not certify completion of applications, if the date when the last application for a building permit or permit extension received by the state, county or local government is on or after September 1, 2012 or, if no permit is required, if the start of physical construction or alterations occurs on or after September 1, 2012.

[PL 2011, c. 613, §14 (NEW); PL 2011, c. 613, §29 (AFF).]

3. Unlawful housing discrimination. For purposes of this Act, unlawful housing discrimination, in addition to any violations of applicable accessible building requirements in subchapter 5, includes, but is not limited to:

A. The failure to design and construct covered multifamily dwellings subject to this section in such a manner that:

- (1) The public use and common use portions of the dwellings are readily accessible to and usable by people with physical or mental disabilities;
- (2) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by persons in wheelchairs; and
- (3) All premises within the dwellings contain the following features of adaptive design:
 - (a) An accessible route into and through the dwelling;
 - (b) Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;
 - (c) Reinforcements in bathroom walls to allow later installation of grab bars; and
 - (d) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space; [PL 2011, c. 613, §14 (NEW); PL 2011, c. 613, §29 (AFF).]

B. For new construction of public housing subject to this section, to have less than 10% of the ground level units and less than 10% of the upper story units connected by an elevator be accessible to and usable by persons with physical disabilities, and less than 2% of the units, no fewer than one unit, with accessible communication features; and [PL 2011, c. 613, §14 (NEW); PL 2011, c. 613, §29 (AFF).]

C. For alterations to public housing units subject to this section, to fail to have the altered units meet the parts of the standards of construction concerning accessible routes, accessible doors and adaptable bathrooms until at least 10% of the total ground level units and a minimum of 10% of the total upper story units connected by an elevator meet the parts of the standards of construction concerning accessible routes, accessible doors and adaptable bathrooms. [PL 2011, c. 613, §14 (NEW); PL 2011, c. 613, §29 (AFF).]

[PL 2011, c. 613, §14 (NEW); PL 2011, c. 613, §29 (AFF).]

4. Compliance with standards. Compliance with the appropriate standards of construction satisfies the requirements of this section.

[PL 2011, c. 613, §14 (NEW); PL 2011, c. 613, §29 (AFF).]

5. Statement; inspection. The builder of a facility to which this section applies shall obtain a statement from a design professional that, based on professional judgment, the plans of the facility at the time of the statement meet the standards of construction required by this section. Prior to commencing construction of the facility, the builder shall submit the statement to:

A. The municipal authority that reviews plans in the municipality where the facility is to be constructed; or [PL 2011, c. 613, §14 (NEW); PL 2011, c. 613, §29 (AFF).]

B. If the municipality where the facility is to be constructed has no authority that reviews plans, the municipal officers of the municipality. [PL 2011, c. 613, §14 (NEW); PL 2011, c. 613, §29 (AFF).]

If municipal officials of the municipality where the facility is to be constructed inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with the standards required by this section. The municipal officials shall require a facility that is inspected to meet the standards of this section before the municipal officials permit the facility to be occupied. [PL 2011, c. 613, §14 (NEW); PL 2011, c. 613, §29 (AFF).]

SECTION HISTORY

PL 2011, c. 613, §14 (NEW). PL 2011, c. 613, §29 (AFF).

§4583. Application

Nothing in this Act may be construed to prohibit or limit the exercise of the privilege of every person and the agent of any person having the right to sell, rent, lease or manage a housing accommodation to set up and enforce specifications in the selling, renting, leasing or letting or in the furnishings of facilities or services in connection with the facilities that are consistent with business necessity and are not based on the race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, country of ancestral origin or familial status of or the receipt of public assistance payments by any prospective or actual purchaser, lessee, tenant or occupant. Nothing in this Act may be construed to prohibit or limit the exercise of the privilege of every person and the agent of any person making loans for or offering financial assistance in the acquisition, construction, rehabilitation, repair or maintenance of housing accommodations to set standards and preferences, terms, conditions, limitations or specifications for the granting of loans or financial assistance that are consistent with business necessity and are not based on the race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, country of ancestral origin or familial status of or the receipt of public assistance payments by the applicant for a loan or financial assistance or of any existing or prospective owner, lessee, tenant or occupant of a housing accommodation. [PL 2021, c. 366, §11 (AMD).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1973, c. 347, §10 (AMD). PL 1973, c. 705, §9 (AMD). PL 1975, c. 151, §2 (AMD). PL 1975, c. 358, §13 (AMD). PL 1975, c. 770, §37 (RPR). PL 1989, c. 245, §5 (AMD). PL 1991, c. 99, §19 (AMD). PL 2005, c. 10, §15 (AMD). PL 2007, c. 243, §4 (AMD). PL 2021, c. 366, §11 (AMD).

SUBCHAPTER 5

PUBLIC ACCOMMODATIONS

§4591. Equal access to public accommodations

The opportunity for every individual to have equal access to places of public accommodation without discrimination because of race, color, sex, sexual orientation or gender identity, age, physical or mental disability, religion, ancestry or national origin is recognized as and declared to be a civil right. [PL 2021, c. 366, §12 (AMD).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1973, c. 347, §11 (AMD). PL 1975, c. 355, §10 (AMD). PL 1975, c. 358, §§13-A (AMD). PL 1975, c. 770, §38 (RPR). PL 1991, c. 99, §20 (AMD). PL 2005, c. 10, §16 (AMD). PL 2021, c. 366, §12 (AMD).

§4592. Unlawful public accommodations

This section does not require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of that entity when the individual poses a direct threat to the health or safety of others. For the purposes of this section, the term "direct threat" means a significant risk to the health or safety of others that can not be eliminated by a modification of policies, practices or procedures or by the provision of auxiliary aids or services. [PL 1995, c. 511, §2 (NEW); PL 1995, c. 511, §3 (AFF).]

It is unlawful public accommodations discrimination, in violation of this Act: [PL 1991, c. 99, §21 (AMD).]

1. Denial of public accommodations. For any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation to directly or indirectly refuse, discriminate against or in any manner withhold from or deny the full and equal enjoyment to any person, on account of race or color, sex, sexual orientation or gender identity, age, physical or mental disability, religion, ancestry or national origin, any of the accommodations, advantages, facilities, goods, services or privileges of public accommodation, or in any manner discriminate against any person in the price, terms or conditions upon which access to accommodations, advantages, facilities, goods, services and privileges may depend.

For purposes of this subsection, unlawful discrimination also includes, but is not limited to:

A. The imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages or accommodations, unless the criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages or accommodations being offered; [PL 1995, c. 393, §22 (NEW).]

B. A failure to make reasonable modifications in policies, practices or procedures, when modifications are necessary to afford the goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities, unless, in the case of a private entity, the private entity can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages or accommodations; [PL 1995, c. 393, §22 (NEW).]

C. A failure to take steps that 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, in the case of a private entity, the private entity can demonstrate that taking those steps would fundamentally alter the nature of the good, service, facility, privilege, advantage or accommodation being offered or would result in an undue burden; and [PL 2023, c. 489, §7 (AMD).]

D. A private entity's failure 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 be removed only through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift, where the removal is readily achievable.

When the entity can demonstrate that the removal of a barrier under this paragraph is not readily achievable, a failure to make the goods, services, facilities, privileges, advantages or accommodations available through alternative methods if alternative methods are readily achievable; [PL 2023, c. 489, §8 (AMD).]

E. [PL 2023, c. 489, §9 (RP).]
[PL 2023, c. 489, §§7-9 (AMD).]

2. Communication, notice or advertisement. For any person to directly or indirectly publish, display or communicate any notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any place of public accommodation are refused, withheld from or denied to any person on account of race or color, sex, sexual orientation or gender identity, age, physical or mental disability, religion, ancestry or national origin, or that the patronage or custom of any person belonging to or purporting to be of any particular race or color, sex, sexual orientation or gender identity, age, physical or mental disability, religion, ancestry or national origin is unwelcome, objectionable or not acceptable, desired or solicited, or that the clientele is restricted to any particular race or color, sex, sexual orientation or gender identity, age, physical or mental disability, religion, ancestry or national origin. The production of any communication, notice or advertisement purporting to relate to any place of accommodation is presumptive evidence in any action that the action was authorized by its owner, manager or proprietor;

[PL 2021, c. 366, §14 (AMD).]

3. Denial of lodging; children, exception. For any person who is the owner, lessee, proprietor, manager, superintendent, agent or employee of any public accommodation for lodging to directly or indirectly refuse or withhold from or deny to any person that lodging on the grounds that the person is accompanied by a child or children who will occupy the unit, unless the total number of persons seeking to occupy the unit exceeds the number permitted by local ordinances or reasonable standards relating to health, safety or sanitation.

This subsection does not apply to the owner of a lodging place:

A. That serves breakfast; [PL 1989, c. 301 (NEW).]

B. That contains no more than 5 rooms available to be let to lodgers; and [PL 1995, c. 393, §23 (AMD).]

C. In which the owner resides on the premises; [PL 1995, c. 393, §23 (AMD).]

[PL 1995, c. 393, §23 (AMD).]

4. Participation. For a covered entity:

A. To subject an individual or a class of individuals, on the basis of a disability or disabilities of the individual or class, directly or through contractual, licensing or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages or accommodations of that entity; [PL 1995, c. 393, §24 (NEW).]

B. To afford an individual or a class of individuals, on the basis of a disability or disabilities of the individual or class, directly or through contractual, licensing or other arrangements, with the opportunity to participate in or benefit from goods or a service, facility, privilege, advantage or accommodation in a manner that is not equal to that afforded to other individuals; and [PL 2023, c. 405, Pt. A, §12 (AMD).]

C. To provide an individual or a class of individuals, on the basis of a disability or disabilities of the individual or class, directly or through contractual, licensing or other arrangements, with goods or a service, facility, privilege, advantage or accommodation that is different or separate from that provided to other individuals, unless this action is necessary to provide the individual or class of individuals with goods or a service, facility, privilege, advantage or accommodation or other opportunity that is as effective as that provided to others. [PL 2023, c. 405, Pt. A, §13 (AMD).]

For purposes of this subsection, the term "individual" or "class of individuals" refers to the clients or customers of the covered public accommodation that enters into a contractual, licensing or other arrangement;

[PL 2023, c. 405, Pt. A, §§12, 13 (AMD).]

5. Integrated setting; programs or activities not separate or different. For a covered entity to not afford goods, services, facilities, privileges, advantages and accommodations to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability may not be denied the opportunity to participate in programs or activities that are not separate or different;

[PL 1995, c. 393, §24 (NEW).]

6. Association. For a covered entity to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations or other opportunities to an individual or entity because of the known protected class status of an individual with whom the individual or entity is known to have a relationship or association;

[PL 2021, c. 366, §15 (AMD).]

7. Administrative methods. For an individual or an entity, directly or through contractual or other arrangements, to utilize standards or criteria or methods of administration:

A. That have the effect of discrimination on the basis of disability; or [PL 1995, c. 393, §24 (NEW).]

B. That perpetuate the discrimination of others who are subject to common administrative control; [PL 2019, c. 464, §5 (AMD).]

[PL 2019, c. 464, §5 (AMD).]

8. Service animals. For any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation to refuse to permit the use of a service animal or otherwise discriminate against an individual with a physical or mental disability who uses a service animal at the public accommodation unless it is shown by defense that the service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the public accommodation by others. The use of a service animal may not be conditioned on the payment of a fee or security deposit, although the individual with a physical or mental disability is liable for any damage done to the premises or facilities by such a service animal. This subsection does not apply to an assistance animal as defined in section 4553, subsection 1-H unless the assistance animal also qualifies as a service animal; and

[PL 2019, c. 464, §6 (AMD).]

9. Unlawful public accommodations. For any public accommodation to designate a single-occupancy toilet facility as for use only by members of one sex. A single-occupancy toilet facility may be identified by a sign, as long as the sign does not indicate that the facility is for use by members of one specific sex. For the purposes of this subsection, a "single-occupancy toilet facility" is a restroom for use by one user at a time or for family or assisted use and that has an outer door that can be locked by the occupant.

[PL 2019, c. 464, §7 (NEW).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1973, c. 347, §12 (AMD). PL 1973, c. 705, §10 (AMD). PL 1975, c. 355, §11 (RPR). PL 1975, c. 358, §14 (AMD). PL 1975, c. 770, §39 (RPR). PL 1985, c. 638, §§2,3 (AMD). PL 1989, c. 301 (RPR). PL 1991, c. 99, §§21,22 (AMD). PL 1995, c. 393, §§22-24 (AMD). PL 1995, c. 511, §2 (AMD). PL 1995, c. 511, §3 (AFF). PL 2005, c. 10, §17 (AMD). PL 2007, c. 664, §§5-7 (AMD). PL 2015, c. 457, §4 (AMD). PL 2019, c. 464, §§5-7 (AMD). PL 2021, c. 366, §§13-15 (AMD). PL 2023, c. 405, Pt. A, §§11-13 (AMD). PL 2023, c. 489, §§7-9 (AMD).

§4593. Standards for facilities constructed or altered between September 1, 1974 and January 1, 1982

1. Public accommodations. For any building or facility constructed specifically as a place of public accommodation on or after September 1, 1974 but before January 1, 1982, or when the estimated total costs for remodeling or enlarging an existing building exceed \$250,000 and the remodeling or enlarging is begun before January 1, 1982, the following standards of construction must be met.

A. There must be at least one public walk not less than 40 inches wide with a slope not greater than one foot rise in 12 feet leading directly to a primary entrance. However, after April 1, 1977, the public walk must be not less than 48 inches wide. [PL 1991, c. 99, §23 (AMD).]

B. There must be a door at the primary entrance with a clear opening of not less than 32 inches and operable by a single effort. If doors at a primary entrance are in a series, they must have a space between them of not less than 84 inches measured from their closed positions; and each must open in the same direction so that swings do not conflict. [PL 1991, c. 99, §23 (AMD).]

C. Rest room facilities must have at least one stall that is not less than 4 feet wide, 5 feet in depth, a 32-inch wide door that swings out or slides, handrails on each side mounted 33 inches from the floor, and a water closet with a seat 20 inches high. [PL 1991, c. 99, §23 (AMD).]

D. Doors that are not intended for normal use and that are dangerous if a blind person were to enter or exit by them must be made identifiable to touch by knurling the handle or knob. [PL 2011, c. 322, §1 (AMD).]

E. There must be parking spaces designated for persons with physical disability set aside in adequate number and clearly marked for use only by the disabled. Set aside in adequate number means that, for every 25 parking spaces made available to the public on a public or private parking lot, at least one of those spaces must be made available in an appropriate location for parking exclusively used by persons with physical disability. [PL 1991, c. 99, §23 (AMD).]

In any building designed and constructed specifically for public accommodations, the bathroom facilities and all accompanying fixtures must be arranged to permit access and use by a person in a wheelchair in at least 1% of the living units. The units must be constructed on ground level and must comply with paragraph C.

[PL 2011, c. 322, §1 (AMD).]

2. Places of employment. For any building or facility constructed specifically as a place of employment on or after September 1, 1974 but before January 1, 1982, or when the estimated total costs for remodeling or enlarging an existing building exceed \$100,000 and the remodeling or enlarging is begun before January 1, 1982, the public accommodation provisions relating to walks, entries, rest room facilities and doors apply.

[PL 2011, c. 322, §1 (AMD).]

SECTION HISTORY

PL 1973, c. 705, §12 (NEW). PL 1975, c. 355, §§12-14 (AMD). PL 1977, c. 80, §1 (AMD). PL 1981, c. 334, §§1,2 (AMD). PL 1983, c. 437, §4 (AMD). PL 1987, c. 390, §1 (AMD). PL 1991, c. 99, §23 (AMD). PL 1995, c. 393, §25 (AMD). PL 2011, c. 322, §1 (AMD).

§4594. Standards for facilities constructed or altered between January 1, 1982 and January 1, 1984

1. Facilities attested. This section applies for the following facilities:

A. Any building or facility constructed specifically as a place of public accommodation on or after January 1, 1982 but before January 1, 1984, or when the estimated total costs for remodeling or enlarging an existing building exceeds \$250,000 and the remodeling or enlarging is begun after January 1, 1982 but before January 1, 1984; and [PL 2011, c. 322, §2 (AMD).]

B. Any building or facility constructed specifically as a place of employment on or after January 1, 1982 but before January 1, 1984, or when the estimated total costs for remodeling or enlarging an existing building exceed \$100,000 and the remodeling or enlarging is begun after January 1, 1982 but before January 1, 1984. [PL 2011, c. 322, §2 (AMD).]
[PL 2011, c. 322, §2 (AMD).]

2. Application. Facilities subject to this section must meet the requirements of the 1981 standards of construction adopted pursuant to Title 25, former chapter 331, to implement the following 4 parts of the American National Standards Institute's "Specification for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," (ANSI A 117.1-1980):

A. 4.3 Accessible Route; [PL 1981, c. 334, §3 (NEW).]

B. 4.13 Doors; [PL 1981, c. 334, §3 (NEW).]

C. 4.17 Toilet Stalls; [PL 1987, c. 390, §2 (AMD).]

D. 4.29.3 Tactile Warnings on doors to Hazardous Areas; and [PL 1987, c. 390, §2 (AMD).]

E. Parking spaces for use by persons with physical disability in adequate number, pursuant to section 4593, subsection 1, paragraph E. [PL 1991, c. 99, §24 (AMD).]

[PL 2011, c. 613, §15 (AMD); PL 2011, c. 613, §29 (AFF).]

SECTION HISTORY

PL 1981, c. 334, §3 (NEW). PL 1987, c. 390, §§2,3 (AMD). PL 1991, c. 99, §24 (AMD). PL 2011, c. 322, §2 (AMD). PL 2011, c. 613, §15 (AMD). PL 2011, c. 613, §29 (AFF).

§4594-A. Standards for facilities constructed or altered between January 1, 1984 and January 1, 1988

1. Facilities attested. This section applies to any building or facility constructed specifically as a place of public accommodation on or after January 1, 1984 but before January 1, 1988, or when the estimated total costs for remodeling or enlarging an existing building exceed \$150,000 and the remodeling or enlarging is begun after January 1, 1984 but before January 1, 1988.

[PL 2011, c. 322, §3 (AMD).]

2. Application. Facilities subject to this section must meet the following standards.

A. Facilities subject to this section constructed on or after January 1, 1984 but before January 1, 1988 must meet the requirements of the 1981 standards of construction adopted pursuant to Title 25, former chapter 331. [PL 2011, c. 613, §16 (AMD); PL 2011, c. 613, §29 (AFF).]

B. Plans to reconstruct, remodel or enlarge an existing place of public accommodation, when the estimated total cost exceeds \$150,000, are subject to this section when the proposed reconstruction, remodeling or enlargement will substantially affect that portion of the building normally accessible to the public.

Facilities subject to this section that are remodeled, enlarged or renovated on or after January 1, 1984 but before January 1, 1988 must meet the requirements of the following 4 parts of the 1981 standards of construction adopted pursuant to Title 25, former chapter 331:

- (1) 4.3 accessible route;
- (2) 4.13 doors;
- (3) 4.17 toilet stalls;
- (4) 4.29.3 tactile warnings on doors to hazardous areas; and

(5) Parking spaces for use by persons with physical disability in adequate number, pursuant to section 4593, subsection 1, paragraph E. [PL 2011, c. 613, §17 (AMD); PL 2011, c. 613, §29 (AFF).]

[PL 2011, c. 613, §§16, 17 (AMD); PL 2011, c. 613, §29 (AFF).]

SECTION HISTORY

PL 1983, c. 437, §5 (NEW). PL 1987, c. 390, §4 (AMD). PL 1991, c. 99, §25 (AMD). PL 2011, c. 322, §3 (AMD). PL 2011, c. 613, §§16, 17 (AMD). PL 2011, c. 613, §29 (AFF).

§4594-B. Standards for facilities constructed or altered between January 1, 1988 and September 1, 1988

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Builder" means the applicant for a building permit in a municipality that requires such permits or the owner of the property in a municipality that does not require building permits. [PL 1987, c. 112 (NEW).]

B. "Design professional" means an architect or professional engineer registered to practice under Title 32. [PL 1987, c. 112 (NEW).]

C. "Standards of construction" means the 1986 standards set forth by the American National Standards Institute in the publication "Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," ANSI A 117.1-1986. [PL 1987, c. 112 (NEW).]

[PL 1987, c. 112 (NEW).]

2. Facilities attested. This section applies to any building or facility constructed specifically as a place of public accommodation on or after January 1, 1988 but before September 1, 1988 or when the estimated total costs for remodeling or enlarging an existing building exceed \$150,000 and the remodeling or enlarging is begun after January 1, 1988 but before September 1, 1988.

[PL 2011, c. 322, §4 (AMD).]

3. Application. Facilities subject to this section must meet the following standards.

A. Facilities subject to this section constructed on or after January 1, 1988 but before September 1, 1988 must meet the standards of construction. [PL 2011, c. 322, §4 (AMD).]

B. Plans to reconstruct, remodel or enlarge an existing place of public accommodation, when the estimated total cost exceeds \$150,000, are subject to this section when the proposed reconstruction, remodeling or enlargement will substantially affect that portion of the building normally accessible to the public.

Facilities subject to this section that are remodeled, enlarged or renovated on or after January 1, 1988 but before September 1, 1988 must meet the requirements of the following 4 parts of the standards of construction:

(1) 4.3 accessible routes;

(2) 4.13 doors;

(3) 4.17 toilet stalls; and

(4) 4.29.3 tactile warnings on doors to hazardous areas. [PL 2011, c. 322, §4 (AMD).]

[PL 2011, c. 322, §4 (AMD).]

4. Certification; inspection. The builder of a facility to which this section applies shall obtain a certification from a design professional that the plans of the facility meet the standards of construction

required by this section. Prior to commencing construction of the facility, the builder shall submit the certification to:

- A. The municipal authority who reviews plans in the municipality where the facility will be constructed; or [PL 1987, c. 112 (NEW).]
- B. If the municipality where the facility will be constructed has no authority who reviews plans, the municipal officers of the municipality. [PL 1987, c. 112 (NEW).]

If municipal officials of the municipality where the facility will be constructed inspect buildings for compliance with construction standards, that inspection shall include an inspection for compliance with the standards required by this section. The municipal officials shall require the facility inspected to meet the construction standards of this section before the municipal officials permit the facility to be occupied.

[PL 1987, c. 112 (NEW).]

SECTION HISTORY

PL 1987, c. 112 (NEW). PL 1987, c. 402, Pt. B, §5 (AMD). PL 2011, c. 322, §4 (AMD).

§4594-C. Standards for facilities constructed or altered between September 1, 1988 and January 1, 1991

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

- A. "Builder" means the applicant for a building permit in a municipality that requires such permits or the owner of the property in a municipality that does not require building permits. [PL 1987, c. 686, §1 (NEW).]
- B. "Design professional" means an architect or professional engineer registered to practice under Title 32. [PL 1987, c. 686, §1 (NEW).]
- C. "Standards of construction" means the 1986 standards set forth by the American National Standards Institute in the publication "Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," ANSI A 117.1-1986. [PL 1987, c. 686, §1 (NEW).]

[PL 1987, c. 686, §1 (NEW).]

2. Facilities attested. This section applies to any building or facility constructed specifically as a place of public accommodation on or after September 1, 1988 but before January 1, 1991 or when the estimated total costs for remodeling or enlarging an existing building exceed \$100,000 and the remodeling or enlarging is begun after September 1, 1988 but before January 1, 1991.

[PL 2011, c. 322, §5 (AMD).]

3. Application. Facilities subject to this section must meet the following standards.

- A. Facilities subject to this section constructed on or after September 1, 1988 but before January 1, 1991 must meet the standards of construction, except that, in the case of toilet stalls, at least one toilet stall shall be the standard stall configuration pursuant to ANSI Figure 30(a). Any additional toilet stalls may be either standard stall configuration, ANSI Figure 30(a), or alternate stall configuration, ANSI Figure 30(b). [PL 2011, c. 322, §5 (AMD).]
- B. Plans to reconstruct, remodel or enlarge an existing place of public accommodation, when the estimated total cost exceeds \$100,000, are subject to this section when the proposed reconstruction, remodeling or enlargement substantially affects that portion of the building normally accessible to the public.

Facilities subject to this section that are remodeled, enlarged or renovated on or after September 1, 1988 but before January 1, 1991 shall meet the requirements of the following 4 parts of the standards of construction:

- (1) 4.3 accessible routes;
 - (2) 4.13 doors;
 - (3) 4.17 toilet stalls, at least one of which must be a standard toilet stall configuration pursuant to ANSI Figure 30(a). Any additional toilet stalls may be either standard stall configuration, ANSI Figure 30(a), or alternate stall configuration, ANSI Figure 30(b); and
 - (4) 4.29.3 tactile warnings on doors to hazardous areas. [PL 2011, c. 322, §5 (AMD).]
- [PL 2011, c. 322, §5 (AMD).]

4. Certification; inspection. The builder of a facility to which this section applies shall obtain a certification from a design professional that the plans of the facility meet the standards of construction required by this section. Prior to commencing construction of the facility, the builder shall submit the certification to:

- A. The municipal authority who reviews plans in the municipality where the facility will be constructed; or [PL 1987, c. 686, §1 (NEW).]
- B. If the municipality where the facility will be constructed has no authority who reviews plans, the municipal officers of the municipality. [PL 1987, c. 686, §1 (NEW).]

If municipal officials of the municipality where the facility will be constructed inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with the standards required by this section. The municipal officials shall require the facility inspected to meet the construction standards of this section before the municipal officials permit the facility to be occupied.

[PL 2011, c. 322, §5 (AMD).]

SECTION HISTORY

PL 1987, c. 686, §1 (NEW). PL 2011, c. 322, §5 (AMD).

§4594-D. Standards for facilities constructed or altered between January 1, 1991 and January 1, 1996

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Builder" means the applicant for a building permit in a municipality that requires such permits or the owner of the property in a municipality that does not require building permits. [PL 1989, c. 795 (NEW).]
- B. "Design professional" means an architect or professional engineer registered to practice under Title 32. [PL 1989, c. 795 (NEW).]
- C. "Standards of construction" means the 1986 standards set forth by the American National Standards Institute in the publication "Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," ANSI A 117.1-1986. [PL 1989, c. 795 (NEW).]

[PL 1989, c. 795 (NEW).]

2. Facilities attested. This section applies to any building or facility constructed specifically as a place of public accommodation or place of employment on or after January 1, 1991 but before January 1, 1996 or when the estimated total costs for remodeling, enlarging or renovating an existing building

exceed \$100,000 and the remodeling, enlarging or renovating is begun after January 1, 1991 but before January 1, 1996.

[PL 2011, c. 322, §6 (AMD).]

3. Application. Facilities subject to this section must meet the following standards.

A. Places of employment or public accommodation and additions to these places constructed on or after January 1, 1991 but before January 1, 1996 must meet the standards of construction. [PL 2011, c. 322, §6 (AMD).]

B. Except for repairs undertaken in accordance with the rules adopted pursuant to subsection 4, when the proposed remodeling or renovation substantially affects that portion of the building normally accessible to the public, places of employment or public accommodation remodeled or renovated on or after January 1, 1991 but before January 1, 1996 must meet the following 5 parts of the standards of construction:

(1) 4.3 accessible routes;

(2) 4.13 doors;

(3) 4.29.3 tactile warnings on doors to hazardous areas;

(4) Parking spaces for use by persons with physical disability in adequate number, pursuant to section 4593, subsection 1, paragraph E; and

(5) 4.17 toilet stalls, at least one of which must be a standard toilet stall configuration pursuant to ANSI Figure 30(a). Any additional toilet stalls within the same toilet room may be either standard stall configuration, ANSI Figure 30(a), or alternate stall configuration, ANSI Figure 30(b). [PL 2011, c. 322, §6 (AMD).]

[PL 2011, c. 322, §6 (AMD).]

4. Rules. The commission may adopt, alter, amend and repeal rules designed to make buildings under this section accessible to, functional for and safe for use by persons with physical disability in accordance with subsection 3, and may adopt, alter, amend and repeal rules designed otherwise to enforce this section.

[PL 1993, c. 349, §10 (AMD).]

5. Certification; inspection. The builder of a facility to which this section applies shall obtain a certification from a design professional that the plans meet the standards of construction required by this section. The builder shall provide the certification to the Office of the State Fire Marshal with the plans of the facility. The builder shall also provide the certification to the municipality where the facility exists or will be built.

[PL 1989, c. 795 (NEW).]

6. Training, education and assistance. The commission and the Office of the State Fire Marshal shall, as necessary, develop information packets, lectures, seminars and educational forums on barrier-free design for the purpose of increasing the awareness and knowledge of owners, architects, design professionals, code enforcers, building contractors and other interested parties.

[PL 1989, c. 795 (NEW).]

7. Mandatory plan review; certification; inspection. Builders of the following newly constructed facilities must submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsection 3:

A. Restaurants; [PL 1989, c. 795 (NEW).]

B. Motels, hotels and inns; [PL 1989, c. 795 (NEW).]

C. State, municipal and county buildings; and [PL 1989, c. 795 (NEW).]

D. Schools, elementary and secondary. [PL 1989, c. 795 (NEW).]

Fees for reviews are established by the Office of the State Fire Marshal.

No building permit may be issued by the municipal authority having jurisdiction to issue these permits unless the Office of the State Fire Marshal approves the plans and certifies that the facility covered by the mandatory plan review meets the standards of construction required by this section; if, however, no decision is rendered within 2 weeks of submission to the Office of the State Fire Marshal, the builder may submit the building permit request directly to the municipality with an attestation that the plans meet the standards of construction.

If officials of the municipality in which the facility is constructed, renovated, remodeled or enlarged inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with the certified plans. The municipal officials shall require that the facility be inspected for compliance with construction standards before the municipal officials permit the facility to be occupied.

[PL 1993, c. 410, Pt. X, §2 (AMD).]

8. Voluntary plan review. Builders of facilities not governed by subsection 7 may submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsection 3. Fees for this review may be assessed by the Office of the State Fire Marshal. [PL 1989, c. 795 (NEW).]

9. Waivers; variance. Builders of facilities governed by subsection 7 may file a petition with the State Fire Marshal requesting a waiver or variance of the standards of construction. If the representative of the Office of the State Fire Marshal determines in cases covered by mandatory plan review that compliance with this section and its rules is not technologically feasible or would result in excessive and unreasonable costs without any substantial benefit to persons with physical disability, the State Fire Marshal may provide for modification of, or substitution for, these standards. In all petitions for variance or waiver, the burden of proof is on the party requesting a variance or waiver to justify its allowance.

Requests for waivers or variances for buildings covered by mandatory plan review are heard by a designee of the Office of the State Fire Marshal. A decision must be provided in writing to the party requesting the waiver or variance.

[PL 1993, c. 450, §1 (AMD).]

10. Appeals. Decisions of the State Fire Marshal on requests for waivers or variances in cases covered by mandatory plan review are subject to review in Superior Court upon petition of the aggrieved party within 30 days after the issuance of the decision for which review is sought. The court may enter an order enforcing, modifying or setting aside the decision of the State Fire Marshal, or it may remand the proceeding to the State Fire Marshal for such further action as the court may direct.

[PL 1993, c. 410, Pt. X, §3 (AMD).]

11. Report.

[PL 2015, c. 102, §9 (RP).]

SECTION HISTORY

PL 1989, c. 795 (NEW). PL 1991, c. 99, §26 (AMD). PL 1993, c. 349, §10 (AMD). PL 1993, c. 410, §§X2,3 (AMD). PL 1993, c. 450, §1 (AMD). PL 2011, c. 322, §6 (AMD). PL 2015, c. 102, §9 (AMD).

§4594-E. Waivers for existing buildings

(REPEALED)

SECTION HISTORY

RR 1993, c. 2, §4 (COR). PL 1993, c. 450, §2 (NEW). PL 1995, c. 393, §26 (RP).

§4594-F. Standards for facilities constructed or altered between January 1, 1996 and March 15, 2012

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Alteration" means a change to a place of public accommodation or a commercial facility that affects or could affect the usability of the building or facility or any part of the building or facility, including, but not limited to, reconstruction, remodeling, rehabilitation, historic restoration, changes or rearrangement in structural parts or elements and changes or rearrangement in the plan configuration of walls and full-height partitions. [PL 1995, c. 393, §27 (NEW).]

B. "Builder" means the applicant for a building permit in a municipality that requires such permits or the owner of a property in a municipality that does not require building permits. [PL 1995, c. 393, §27 (NEW).]

C. [PL 1997, c. 630, §1 (RP).]

D. "Facility" means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots or other real or personal property, including the site where the building, property, structure or equipment is located. [PL 1995, c. 393, §27 (NEW).]

E. "Historic preservation programs" means programs conducted by a public or private entity that have preservation of historic properties as a primary purpose. [PL 1995, c. 393, §27 (NEW).]

F. "Historic properties" means those properties that are listed or eligible for listing in the National Register of Historic Places or the State of Maine Register of Historic Places. [PL 1995, c. 393, §27 (NEW).]

G. "Maximum extent feasible" applies to the occasional case when the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the alteration must provide the maximum physical accessibility feasible. Any altered features of the facility that can be made accessible must be made accessible. If providing accessibility in conformance with this section to individuals with certain disabilities would not be feasible, the facility must be made accessible to persons with other types of disabilities. [PL 1995, c. 393, §27 (NEW).]

H. "New construction" includes, but is not limited to, the design and construction of facilities for first occupancy after January 1, 1996 or an alteration affecting at least 80% of the space of the internal structure of facilities after January 1, 1996. [PL 1995, c. 393, §27 (NEW).]

I. "Readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

- (1) The nature and cost of the action needed under this subchapter;
- (2) The overall financial resources of the facility or facilities involved in the action, the number of persons employed at the facility, the effect on expenses and resources or other impacts of the action on the operation of the facility;
- (3) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees and the number, type and location of its facilities; and
- (4) The type of operation or operations of the covered entity, including the composition, structure and functions of the entity's work force, the geographic separateness and

administrative or fiscal relationship of the facility or facilities in question to the covered entity.
[PL 1995, c. 393, §27 (NEW).]

J. "Standards of construction" means the standards set forth in the federal Americans with Disabilities Act Accessibility Guidelines, "ADAAG," standards. The ADAAG standards of construction replace ANSI standards and provide the architectural standards of construction. [PL 1995, c. 393, §27 (NEW).]
[PL 1997, c. 630, §1 (AMD).]

2. Facilities attested. This section applies to any building or facility constructed specifically as a place of public accommodation or place of employment on or after January 1, 1996 but before March 15, 2012 or to any alterations of an existing place of public accommodation or place of employment when the alteration is begun after January 1, 1996 but before March 15, 2012, unless such construction or alteration is covered by section 4594-G, in which case section 4594-G and not this section applies. As an alternative to compliance with this section, any new construction or alterations covered by this section may comply with section 4594-G.
[PL 2011, c. 322, §7 (AMD).]

3. Application. Facilities subject to this section must meet the following standards.

A. Places of employment or public accommodation and additions to those places constructed on or after January 1, 1996 but before March 15, 2012 must meet the standards of construction, including, but not limited to, the 5 parts of the standards of construction in paragraph B, subparagraph (2). [RR 2011, c. 1, §5 (COR).]

B. Alterations are governed by the following.

(1) Any alteration to a place of public accommodation, commercial facility or place of employment on or after January 1, 1996 but before March 15, 2012 must be made so as to ensure that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. If existing elements, spaces or common areas are altered, then each altered element, space or area must comply with the applicable provisions of the standards of construction.

(2) This subparagraph applies to only buildings remodeled or renovated or to any alterations if the estimated total costs for remodeling or renovating or for alterations to an existing building exceed \$100,000.

(a) Except for repairs undertaken in accordance with the rules adopted pursuant to subsection 4, when the proposed alteration substantially affects that portion of the building normally accessible to the public, a place of employment or public accommodation altered on or after January 1, 1996 but before March 15, 2012 must meet the following 5 parts of the standards of construction or as otherwise indicated:

(i) 4.3 accessible routes;

(ii) 4.13 doors;

(iii) Tactile warnings on doors to hazardous areas. Doors that lead to areas that might prove dangerous to a blind person, for example, doors to loading platforms, boiler rooms, stages and the like, must be made identifiable to the touch by a textured surface on the door handle, knob, pull or other operating hardware. This textured surface may be made by knurling or roughening or by a material applied to the contact surface. Textured surfaces may not be provided for emergency exit doors or any doors other than those to hazardous areas;

(iv) Parking spaces for use by persons with physical disabilities pursuant to 4.1.2 of the standards of construction; and

(v) 4.17 toilet stalls, at least one of which must be a standard toilet stall configuration pursuant to ADAAG figure 30(a). Any additional toilet stalls within the same toilet room may be either standard stall configuration, ADAAG figure 30(a) or alternate stall configuration ADAAG figure 30(b).

(b) In addition to the 5 parts of the standards of construction specified in division (a), each of which must be met regardless of the cost of the 5 parts of the standards, when the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones and drinking fountains serving the altered area to the extent that the costs to provide an accessible path of travel do not exceed 20% of the cost of the alteration to the primary function area.

If the cost to provide an accessible path of travel to the altered area exceeds 20% of the costs of the alteration to the primary function area, the path of travel must be made accessible to the extent that it can be made accessible without incurring disproportionate costs.

In determining whether the 20% cost figure has been met, the following analysis must be used. The analysis must include an evaluation of whether the following elements of access have been provided, using the following order of priority, before costing 20%, regardless of other elements of access that may have been provided which may affect the path of travel:

- (i) An accessible entrance;
- (ii) An accessible route to the altered area;
- (iii) At least one accessible restroom for each sex or a single unisex restroom;
- (iv) Accessible telephones;
- (v) Accessible drinking fountains; and
- (vi) When possible, additional accessible elements such as parking, storage and alarms.

The obligation to provide an accessible path of travel may not be evaded by performing a series of small alterations to the area served by a single path of travel if those alterations could have been performed as a single undertaking.

(3) This subparagraph applies to only buildings remodeled or renovated or to any alterations if the estimated total costs for remodeling or renovating or for alterations to an existing building do not exceed \$100,000. When the entity is undertaking an alteration that affects or could affect usability or access to an area of the facility containing a primary function, the entity shall make the alterations in a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities, where the alterations to the path of travel or the bathrooms, telephones and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope. [PL 2011, c. 322, §7 (AMD).]

C. This subsection may not be construed to require the installation of an elevator for a facility that is less than 3 stories in height or has less than 3,000 square feet per story unless the facility is a shopping center, a shopping mall, the professional office of a health care provider, a terminal, depot or other station used for specified public transportation or an airport passenger terminal or a facility covered by Title II of the Americans with Disabilities Act or unless the United States Attorney General determines that a particular category of facility requires the installation of elevators based on the usage of the facility. [PL 1995, c. 393, §27 (NEW).]

[RR 2011, c. 1, §5 (COR).]

4. Curb ramps. Curb ramps or other slopes are required in the following situations.

A. Newly constructed or altered streets, roads and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street-level pedestrian walkway. [PL 1995, c. 393, §27 (NEW).]

B. Newly constructed or altered street-level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads or highways. [PL 1995, c. 393, §27 (NEW).]

[PL 1995, c. 393, §27 (NEW).]

5. Rules. The commission shall adopt, alter and amend rules designed to make facilities under this section accessible to, functional for and safe for use by persons with physical or mental disabilities in accordance with subsections 3 and 4 and shall adopt, alter and amend rules designed to enforce this section. The commission may repeal only those rules contrary to this chapter. The commission shall also adopt rules concerning procedures and requirements for alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities as defined in 4.1.7(1) and (2) of the Uniform Federal Accessibility Standards, maintaining, at a minimum, the procedures and requirements established in 4.1.7(1) and (2) of the Uniform Federal Accessibility Standards.

[PL 1995, c. 393, §27 (NEW).]

6. Barrier-free certification; inspection. If the costs of construction or alterations are at least \$50,000, the builder of a facility to which this section applies must obtain a certification from an architect, professional engineer, certified interior designer or landscape architect who is licensed, certified or registered to practice under Title 32 and is practicing within the scope of that individual's profession that the plans meet the standards of construction required by this section. The builder shall provide the certification to the Office of the State Fire Marshal with the plans of the facility. The builder shall also provide the certification to the municipality where the facility exists or will be built. Nothing in this section may be construed to change the scope of practice of any individual licensed, certified or registered to practice under Title 32.

[PL 1997, c. 630, §2 (AMD).]

7. Training, education and assistance. The commission and the Office of the State Fire Marshal, with input from organizations representing individuals with disabilities, shall develop, as necessary, information packets, lectures, seminars and educational forums on barrier-free design for the purpose of increasing the awareness and knowledge of owners, architects, professional engineers, certified interior designers, landscape architects, code enforcers, building contractors, individuals with disabilities and other interested parties.

[PL 1997, c. 630, §2 (AMD).]

8. Mandatory plan review; certification; inspection. Builders of newly constructed public buildings shall submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsections 3 and 4.

A. For purposes of this subsection, "public building" means any building or structure constructed, operated or maintained for use by the general public, including, but not limited to, all buildings or portions of buildings used for:

- (1) State, municipal or county purposes;
- (2) Education;
- (3) Health care;
- (4) Public assembly;
- (5) A hotel, motel or inn;
- (6) A restaurant;
- (7) Business occupancy; or
- (8) Mercantile establishments occupying more than 3000 square feet. [PL 1995, c. 393, §27 (NEW).]

B. The municipal authority having jurisdiction to issue building permits may not issue a building permit unless the Office of the State Fire Marshal approves the plans and certifies that the public building covered by this subsection meets the standards of construction required by this section. If no decision is rendered within 2 weeks of submission to the Office of the State Fire Marshal, the builder may submit the building permit request directly to the municipality with an attestation from an architect or professional engineer licensed or registered to practice under Title 32 that the plans meet the standards of construction. [PL 1997, c. 630, §3 (AMD).]

C. If officials of the municipality in which a restaurant; motel; hotel; inn; state; municipal or county building; or an elementary or secondary school covered by this subsection is constructed, renovated, remodeled or enlarged inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with the certified plans. The municipal officials shall require that a facility covered by this paragraph be inspected for compliance with construction standards before the municipal officials permit a facility covered by this paragraph to be occupied. [PL 1995, c. 393, §27 (NEW).]

[PL 1997, c. 630, §3 (AMD).]

9. Voluntary plan review. Builders of facilities not governed by subsection 8 may submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsections 3 and 4. Certification for a voluntary plan review may be provided by an architect, professional engineer, certified interior designer or landscape architect licensed, certified or registered to practice under Title 32 and practicing within the scope of that individual's profession. [PL 1997, c. 630, §4 (AMD).]

10. Waivers; variance. Builders of facilities governed by subsection 8 that are private entities, when the facilities are not to be owned or operated by, or leased to or by, a public entity, may file a petition with the State Fire Marshal requesting a waiver or variance of the standards of construction. If a representative of the Office of the State Fire Marshal determines, in cases covered by mandatory plan review pursuant to subsection 8, that compliance with this section and its rules is structurally impracticable, the State Fire Marshal may provide for modification of, or substitution for, these standards. In all petitions for variance or waiver, the burden of proof is on the party requesting the variance or waiver to justify its allowance. [PL 1995, c. 393, §27 (NEW).]

11. Appeals relating to mandatory plan reviews. Decisions of the State Fire Marshal on requests for waivers or variances in cases covered by mandatory plan review under subsection 8 are subject to review in Superior Court upon petition of the aggrieved party within 30 days after the issuance of the decision for which review is sought. The court may enter an order enforcing, modifying or setting aside the decision of the State Fire Marshal, or it may remand the proceeding to the State Fire Marshal for further action as the court may direct.

[PL 1995, c. 393, §27 (NEW).]

12. Fees. The Office of the State Fire Marshal shall establish fees for reviews, waivers or variances under this section. The Office of the State Fire Marshal shall pay all fees to the Treasurer of State to be used to carry out this chapter. Any balance of these fees does not lapse but is carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

[PL 1995, c. 393, §27 (NEW).]

SECTION HISTORY

PL 1995, c. 393, §27 (NEW). PL 1997, c. 630, §§1-4 (AMD). PL 2011, c. 322, §7 (AMD). RR 2011, c. 1, §5 (COR).

§4594-G. Standards for facilities constructed or altered after March 15, 2012

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Alteration" means a change to a place of public accommodation or a commercial facility that affects or could affect the usability of the building or facility or any part of the building or facility, including, but not limited to, reconstruction, remodeling, rehabilitation, historic restoration, changes or rearrangement in structural parts or elements and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, asbestos removal or changes to mechanical and electrical systems are not alterations unless they affect the usability of the building or facility. [PL 2011, c. 322, §8 (NEW).]

B. "Builder" means the applicant for a building permit in a municipality that requires such permits or the owner of a property in a municipality that does not require building permits. [PL 2011, c. 322, §8 (NEW).]

C. "Commuter rail transportation" means short-haul rail passenger service operating in metropolitan and suburban areas, whether within or across the geographical boundaries of a state, usually characterized by reduced fare, multiple ride and commutation tickets and by morning and evening peak period operations. This term does not include light or rapid rail transportation. [PL 2011, c. 322, §8 (NEW).]

D. "Demand responsive system" means any system of transporting individuals, including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including but not limited to specified public transportation service, that is not a fixed-route system. [PL 2011, c. 322, §8 (NEW).]

E. "Designated public transportation" means transportation provided by a public entity other than public school transportation by bus, rail or other conveyance other than transportation by aircraft or intercity or commuter rail transportation that provides the general public with general or special service, including charter service, on a regular and continuing basis. [PL 2011, c. 322, §8 (NEW).]

F. "Facility" means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots or other real or personal property, including the site where the building, property, structure or equipment is located. [PL 2011, c. 322, §8 (NEW).]

G. "Fixed-route system" means a system of transporting individuals other than by aircraft, including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including, but not limited to, specified public transportation service, on which a vehicle is operated along a prescribed route according to a fixed schedule. [PL 2011, c. 322, §8 (NEW).]

H. "Intercity rail transportation" means transportation provided by the National Railroad Passenger Corporation, doing business as Amtrak. [PL 2011, c. 322, §8 (NEW).]

I. "New construction" includes, but is not limited to, the design and construction of a facility for first occupancy or an alteration if the cost of the alteration is 75% or more of the replacement cost of the completed facility. [PL 2011, c. 322, §8 (NEW).]

J. "Specified public transportation" means transportation by bus, rail or any other conveyance other than aircraft provided by a private entity to the general public, with general or special service, including charter service, on a regular and continuing basis. [PL 2011, c. 322, §8 (NEW).]

K. "Standards of construction" means:

(1) For a transportation facility, the accessibility standards adopted by the federal Department of Transportation, 49 Code of Federal Regulations, Sections 37.9, 37.41, 37.43 and 37.45 (2010);

(2) For a facility constructed or altered by, on behalf of or for the use of a public entity, other than a transportation facility, the 2010 ADA Standards for Accessible Design, 28 Code of Federal Regulations, Sections 35.104 and 35.151; and

(3) For a place of public accommodation or a commercial facility, other than a facility covered by subparagraph (1) or (2), the 2010 ADA Standards for Accessible Design, 28 Code of Federal Regulations, Section 36.104 and Sections 36.401 to 36.406. [RR 2011, c. 2, §3 (COR).]

L. "Transportation facility" means a facility constructed or altered by, on behalf of or for the use of:

(1) Any public entity that provides designated public transportation or intercity or commuter rail transportation;

(2) Any private entity that provides specified public transportation; or

(3) Any private entity that is not primarily engaged in the business of transporting people but operates a demand responsive system or fixed-route system. [PL 2011, c. 322, §8 (NEW).]

[RR 2011, c. 2, §3 (COR).]

2. Facilities attested. This section applies to new construction and alterations of transportation facilities, places of public accommodation and commercial facilities and facilities constructed or altered by, on behalf of or for the use of a public entity, if:

A. The last application for a building permit or permit extension is certified to be complete by the appropriate state, county or local government entity on or after March 15, 2012; [PL 2011, c. 322, §8 (NEW).]

B. In a jurisdiction where the government does not certify completion of applications, the last application for a building permit or permit extension is received by the appropriate state, county or local government entity on or after March 15, 2012; or [PL 2011, c. 322, §8 (NEW).]

C. If no permit is required, the start of physical construction or alterations occurs on or after March 15, 2012. [PL 2011, c. 322, §8 (NEW).]

[PL 2011, c. 322, §8 (NEW).]

3. Unlawful discrimination. In addition to failure to meet applicable accessible building requirements in subchapter 4, for purposes of this Act, unlawful discrimination includes, but is not limited to, the failure to meet the standards of construction for new construction or alterations subject to this section.

[PL 2011, c. 322, §8 (NEW).]

4. Barrier-free certification. If the costs of construction or alterations are at least \$75,000, the builder of a facility to which this section applies must obtain a certification from an architect, professional engineer, certified interior designer or landscape architect who is licensed, certified or registered to practice under Title 32 and is practicing within the scope of that individual's profession

that the plans meet the requirements of subsection 3. The builder shall provide the certification to the Office of the State Fire Marshal with the plans of the facility. The builder shall also provide the certification to the municipality where the facility exists or will be built. Nothing in this section may be construed to change the scope of practice of any individual licensed, certified or registered to practice under Title 32.

[PL 2011, c. 322, §8 (NEW).]

5. Training, education and assistance. The commission and the Office of the State Fire Marshal, with input from organizations representing persons with disabilities, shall develop, as necessary, information packets, lectures, seminars and educational forums on barrier-free design for the purpose of increasing the awareness and knowledge of owners, architects, professional engineers, certified interior designers, landscape architects, code enforcers, building contractors, persons with disabilities and other interested parties.

[PL 2011, c. 322, §8 (NEW).]

6. Mandatory plan review; certification. A builder of a proposed public building shall submit plans to the Office of the State Fire Marshal prior to construction to ensure that the plans meet the standards of construction.

A. For purposes of this subsection, "public building" means any building or structure constructed, operated or maintained for use by the general public, including, but not limited to, all buildings or portions of buildings used for:

- (1) State, municipal or county purposes;
- (2) Education;
- (3) Health care, residential care nursing homes or any facility licensed by the Department of Health and Human Services;
- (4) Public assembly;
- (5) A hotel, motel, inn or rooming or lodging house;
- (6) A restaurant;
- (7) Business occupancy of more than 3,000 square feet or more than one story; or
- (8) Mercantile occupancy of more than 3,000 square feet or more than one story. [PL 2011, c. 322, §8 (NEW).]

B. The municipal authority having jurisdiction to issue building permits may not issue a building permit unless the Office of the State Fire Marshal approves the plans and certifies that the plans for the public building covered by this subsection meet the standards of construction. If the builder of a facility is required to obtain barrier-free certification, a permit for construction from the Office of the State Fire Marshal is also required. If no decision is rendered within 2 weeks of submission to the Office of the State Fire Marshal, the builder may submit the permit request directly to the municipality with an attestation from an architect or professional engineer licensed or registered to practice under Title 32 that the plans meet the standards of construction. [PL 2011, c. 322, §8 (NEW).]

[PL 2011, c. 322, §8 (NEW).]

7. Inspection. If officials of the municipality in which a restaurant, motel, hotel or inn; state, municipal or county building; or an elementary or secondary school covered by this subsection is constructed, renovated, remodeled or enlarged inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with plans certified by the Office of the State Fire Marshal or by a professional pursuant to subsection 4. The municipal officials shall require that a facility covered by this paragraph be inspected for compliance with the standards of

construction required by subsection 3 before the municipal officials permit a facility covered by this paragraph to be occupied.

[PL 2011, c. 322, §8 (NEW).]

8. Voluntary plan review. Builders of facilities not governed by subsection 6 may submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsection 3. Certification for a voluntary plan review may be provided by an architect, professional engineer, certified interior designer or landscape architect licensed, certified or registered to practice under Title 32 and practicing within the scope of that individual's profession.

[PL 2011, c. 322, §8 (NEW).]

9. Waivers; variance. Builders of facilities governed by subsection 6 may file a petition with the State Fire Marshal requesting a waiver or variance of the standards of construction. If a representative of the Office of the State Fire Marshal determines, in cases covered by mandatory plan review pursuant to subsection 6, that compliance with this section and its rules is structurally impracticable, the State Fire Marshal may provide for modification of, or substitution for, these standards. In all petitions for variance or waiver, the burden of proof is on the party requesting the variance or waiver to justify allowing the variance or waiver.

[PL 2011, c. 322, §8 (NEW).]

10. Appeals relating to mandatory plan reviews. Decisions of the State Fire Marshal on requests for waivers or variances in cases covered by mandatory plan review under subsection 6 are subject to review in Superior Court upon petition of the aggrieved party within 30 days after the issuance of the decision for which review is sought. The court may enter an order enforcing, modifying or setting aside the decision of the State Fire Marshal, or it may remand the proceeding to the State Fire Marshal for further action as the court may direct.

[PL 2011, c. 322, §8 (NEW).]

11. Fees. The Office of the State Fire Marshal shall establish fees for reviews, waivers or variances under this section. The Office of the State Fire Marshal shall pay all fees to the Treasurer of State to be used to carry out this subchapter. Any balance of these fees does not lapse but is carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

[PL 2011, c. 322, §8 (NEW).]

12. Single-occupancy toilet facilities; qualifying new construction. Beginning January 1, 2020, new construction of a public building, as defined in subsection 6, must include single-occupancy toilet facilities that meet the standards of construction required by this section. This subsection applies to new construction for which the maximum occupant capacity exceeds 100 individuals.

[PL 2019, c. 516, §1 (NEW).]

SECTION HISTORY

RR 2011, c. 2, §3 (COR). PL 2011, c. 322, §8 (NEW). PL 2019, c. 516, §1 (AMD).

§4594-H. Marking of parking space access aisles

Notwithstanding any provision of this subchapter to the contrary, a state department, state agency or quasi-independent state entity shall ensure that parking areas serving state-owned or state-leased buildings housing that state department, state agency or quasi-independent state entity meet the federal standards related to the marking of parking space access aisles under the 2010 ADA Standards for Accessible Design, 28 Code of Federal Regulations, Sections 35.104 and 35.151. For the purposes of this section, "quasi-independent state entity" has the same meaning as in section 12021, subsection 5.

[PL 2019, c. 573, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 573, §1 (NEW).

SUBCHAPTER 5-A

A FAIR CREDIT EXTENSION

§4595. Right to freedom from discrimination solely on basis of age, race, color, sex, sexual orientation or gender identity, marital status, ancestry, religion or national origin in any credit transaction

The opportunity for every individual to be extended credit without discrimination solely because of any one or more of the following factors: age; race; color; sex; sexual orientation or gender identity; marital status; ancestry; religion or national origin is recognized as and declared to be a civil right. [PL 2021, c. 366, §16 (AMD).]

SECTION HISTORY

PL 1973, c. 668 (NEW). PL 1975, c. 355, §15 (AMD). PL 1975, c. 370, §1 (AMD). PL 1975, c. 770, §40 (RPR). PL 2005, c. 10, §18 (AMD). PL 2021, c. 366, §16 (AMD).

§4596. Unlawful credit extension discrimination

It is unlawful credit discrimination for any creditor to refuse the extension of credit to any person solely on the basis of any one or more of the following factors: age, race, color, sex, sexual orientation or gender identity, marital status, ancestry, religion or national origin in any credit transaction. It is not unlawful credit discrimination to comply with the terms and conditions of any bona fide group credit life, accident and health insurance plan, for a financial institution extending credit to a married person to require both spouses to sign a note and a mortgage and to deny credit to persons under 18 years of age or to consider a person's age in determining the terms upon which credit will be extended. [RR 2023, c. 2, Pt. B, §65 (COR).]

SECTION HISTORY

PL 1973, c. 668 (NEW). PL 1973, c. 788, §26 (AMD). PL 1975, c. 355, §16 (AMD). PL 1975, c. 370, §2 (AMD). PL 1975, c. 770, §41 (AMD). PL 2005, c. 10, §19 (AMD). PL 2021, c. 366, §17 (AMD). RR 2023, c. 2, Pt. B, §65 (COR).

§4597. Definitions

As used in this subchapter, unless the context otherwise requires, the following words shall have the following meanings: [PL 1973, c. 668 (NEW).]

1. Application for credit. "Application for credit" means any communication, oral or written, by a person to a creditor requesting an extension of credit to that person or to any other person, and includes any procedure involving the renewal or alteration of credit privileges or the changing of the name of the person to whom credit is extended; [PL 1973, c. 668 (NEW).]

2. Credit. "Credit" means the right granted by a creditor to a person to defer payment of debt or to incur debt and defer its payment, or purchase property or services and defer payment therefor; [PL 1973, c. 668 (NEW).]

3. Credit sale. "Credit sale" means a transaction with respect to which credit is granted or arranged by the seller. The term includes a contract in the form of a bailment or lease if the bailee or lessee contracts to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the property and services involved and it is agreed that the bailee or lessee will become the owner of the property upon full compliance with the bailee's or lessee's obligations under the contract; [RR 2023, c. 2, Pt. B, §66 (COR).]

4. Credit transaction. "Credit transaction" means any invitation to apply for credit, application for credit, extension of credit or credit sale.

[PL 1973, c. 668 (NEW).]

5. Creditor. "Creditor" means any person who regularly extends or arranges for the extension of credit for which the payment of finance charge or interest is required whether in connection with loans, sale of property or services or otherwise.

[PL 1973, c. 668 (NEW).]

6. Extension of credit. "Extension of credit" means any acts incident to the evaluation of an application for credit and the granting of credit.

[PL 1973, c. 668 (NEW).]

7. Invitation to apply for credit. "Invitation to apply for credit" means any communication, oral or written, by a creditor which encourages or prompts an application for credit.

[PL 1973, c. 668 (NEW).]

SECTION HISTORY

PL 1973, c. 668 (NEW). RR 2023, c. 2, Pt. B, §66 (COR).

§4598. Enforcement

The Superintendent of Financial Institutions and the Superintendent of Consumer Credit Protection shall cooperate with the Maine Human Rights Commission in its enforcement of this subchapter. [PL 1995, c. 17, §1 (AMD); PL 2001, c. 44, §11 (AMD); PL 2001, c. 44, §14 (AFF).]

SECTION HISTORY

PL 1973, c. 668 (NEW). PL 1975, c. 355, §17 (AMD). PL 1979, c. 541, §A39 (AMD). PL 1995, c. 17, §1 (AMD). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF).

SUBCHAPTER 5-B

EDUCATIONAL OPPORTUNITY

§4601. Right to freedom from discrimination in education

The opportunity for an individual at an educational institution to participate in all educational, counseling and vocational guidance programs, all apprenticeship and on-the-job training programs and all extracurricular activities without discrimination because of sex, sexual orientation or gender identity, a physical or mental disability, ancestry, national origin, race, color or religion is recognized and declared to be a civil right. [PL 2021, c. 366, §18 (AMD).]

SECTION HISTORY

PL 1983, c. 578, §3 (NEW). PL 1987, c. 478, §3 (AMD). PL 1989, c. 725, §1 (AMD). PL 1991, c. 99, §27 (AMD). PL 1991, c. 100, §1 (AMD). PL 1991, c. 824, §A4 (RPR). PL 2005, c. 10, §20 (AMD). PL 2021, c. 366, §18 (AMD).

§4602. Unlawful educational discrimination

1. Unlawful educational discrimination. It is unlawful educational discrimination in violation of this Act, on the basis of sex, sexual orientation or gender identity, physical or mental disability, ancestry, national origin, race, color or religion, to:

- A. Exclude a person from participation in, deny a person the benefits of, or subject a person to, discrimination in any academic, extracurricular, research, occupational training or other program or activity; [PL 1985, c. 797, §1 (AMD).]

B. Deny a person equal opportunity in athletic programs; [PL 1983, c. 578, §3 (NEW).]

C. Apply any rule concerning the actual or potential familial status or marital status of a person or to exclude any person from any program or activity because of pregnancy or related conditions or because of sex or sexual orientation or gender identity; [PL 2021, c. 366, §19 (AMD).]

D. Deny a person admission to the institution or program or to fail to provide equal access to and information about an institution or program through recruitment; or [PL 2021, c. 366, §19 (AMD).]

E. Deny a person financial assistance availability and opportunity. [PL 2021, c. 366, §19 (AMD).]

[PL 2021, c. 366, §19 (AMD).]

2. Unlawful educational discrimination on the basis of physical or mental disability.

[PL 2021, c. 366, §19 (RP).]

3. Unlawful educational discrimination on the basis of national origin or race.

[PL 2021, c. 366, §19 (RP).]

4. Unlawful education discrimination on the basis of sexual orientation.

[PL 2021, c. 366, §19 (RP).]

5. Application. Nothing in this section:

A. Requires an educational institution to provide separate athletic or other extracurricular programs to serve a person with a physical or mental disability; [PL 2021, c. 366, §19 (NEW).]

B. May be construed to affect the rights of a person with a physical or mental disability to special education programs under state or federal law; [PL 2021, c. 366, §19 (NEW).]

C. Requires a religious corporation, association or society that does not receive public funding to comply with this section as it relates to sexual orientation or gender identity; or [PL 2021, c. 366, §19 (NEW).]

D. Requires an educational institution to participate in or endorse any religious beliefs or practices; to the extent that an educational institution permits religious expression, it cannot discriminate between religions in so doing. [PL 2021, c. 366, §19 (NEW).]

[PL 2021, c. 366, §19 (NEW).]

SECTION HISTORY

PL 1983, c. 578, §3 (NEW). PL 1985, c. 797, §1 (AMD). PL 1987, c. 478, §4 (AMD). PL 1989, c. 725, §2 (AMD). PL 1991, c. 99, §28 (AMD). PL 1991, c. 100, §2 (AMD). PL 2005, c. 10, §21 (AMD). PL 2005, c. 662, §A1 (AMD). PL 2021, c. 366, §19 (AMD).

§4603. Rulemaking; review

The Commissioner of Education has joint rule-making authority with the commission to effectuate this subchapter. On or before January 15, 2024 and at least once every 10 years thereafter, the Commissioner of Education and the commission shall jointly review rules adopted pursuant to this section and, if the Commissioner of Education and the commission determine that those rules must be amended to reflect changes in statute and best practices to ensure an individual's right to freedom from discrimination in education, the Commissioner of Education and the commission shall as soon as practicable initiate rulemaking in accordance with this section. [PL 2023, c. 105, §1 (AMD).]

SECTION HISTORY

PL 1983, c. 578, §3 (NEW). PL 1989, c. 700, §A18 (AMD). PL 2023, c. 105, §1 (AMD).

§4604. Enforcement

The Commissioner of Education, or a designee, may participate in predetermination resolution and conciliation efforts of the commission as follows: [PL 1989, c. 700, Pt. A, §18 (AMD).]

1. Notification of results of preliminary investigations. The Commissioner of Education shall be informed of the results of preliminary investigations into complaints of unlawful educational discrimination concerning public schools and programs and private schools approved for tuition purposes.

[PL 1989, c. 700, Pt. A, §18 (AMD).]

2. Notification of findings of unlawful educational discrimination; informal conciliation efforts. The Commissioner of Education shall be informed of any finding that unlawful educational discrimination has occurred in a public school or program or a private school or program approved for tuition purposes. The commissioner may participate in informal conciliation efforts made pursuant to section 4612, subsection 3 and shall, upon request, have access to all information concerning these conciliation efforts.

[PL 1989, c. 700, Pt. A, §18 (AMD).]

SECTION HISTORY

PL 1983, c. 578, §3 (NEW). PL 1989, c. 700, §A18 (AMD).

SUBCHAPTER 6**COMMISSION ACTION****§4611. Complaint**

Any aggrieved person, or any employee of the commission, may file a complaint under oath with the commission stating the facts concerning the alleged discrimination, except that a complaint must be filed with the commission not more than 300 days after the alleged act of unlawful discrimination. In addition, any person may file a complaint pursuant to section 4632. [PL 2011, c. 613, §18 (AMD); PL 2011, c. 613, §29 (AFF).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1975, c. 355, §18 (AMD). PL 1975, c. 357, §1 (AMD). PL 1975, c. 770, §42 (RPR). PL 1977, c. 259, §2 (AMD). PL 1995, c. 393, §28 (AMD). PL 2009, c. 235, §1 (AMD). PL 2011, c. 613, §18 (AMD). PL 2011, c. 613, §29 (AFF).

§4612. Procedure on complaints

1. Predetermination resolution; investigation. Upon receipt of such a complaint, the commission or its delegated single commissioner or investigator shall take the following actions.

A. The commission or its delegated single commissioner or investigator shall provide an opportunity for the complainant and respondent to resolve the matter by settlement agreement prior to a determination of whether there are reasonable grounds to believe that unlawful discrimination has occurred. Evidence of conduct or statements made in compromise settlement negotiations, offers of settlement and any final agreement are confidential and may not be disclosed without the written consent of the parties to the proceeding nor used as evidence in any subsequent proceeding, civil or criminal, except in a civil action alleging a breach of agreement filed by the commission or a party. Notwithstanding this paragraph, the commission and its employees have discretion to disclose such information to a party as is reasonably necessary to facilitate settlement. The commission may adopt rules providing for a 3rd-party neutral mediation program. The rules may permit one or more parties to a proceeding to agree to pay the costs of mediation. The commission

may receive funds from any source for the purposes of implementing a 3rd-party neutral mediation program, and such funds are not subject to any statewide cost allocation plan. [PL 2019, c. 465, §6 (AMD).]

B. The commission or its delegated commissioner or investigator shall conduct such preliminary investigation as it determines necessary to determine whether there are reasonable grounds to believe that unlawful discrimination has occurred. In conducting an investigation, the commission, or its designated representative, must have access at all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy those materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation. The commission may issue subpoenas to compel access to or production of those materials or the appearance of those persons, subject to section 4566, subsections 4-A and 4-B, and may serve interrogatories on a respondent to the same extent as interrogatories served in aid of a civil action in the Superior Court. The commission may administer oaths. The complaint and evidence collected during the investigation of the complaint, other than data identifying persons not parties to the complaint and other information designated as confidential in subsection 1-A, is a matter of public record at the conclusion of the investigation of the complaint prior to a determination by the commission. An investigation is concluded upon issuance of a letter of dismissal or upon listing of the complaint on a published commission meeting agenda, whichever first occurs. Prior to the conclusion of an investigation, all information possessed by the commission relating to the investigation is confidential and may not be disclosed, except that the commission and its employees have discretion to disclose such information as is reasonably necessary to further the investigation. Notwithstanding any other provision of this section, the complaint and evidence collected during the investigation of the complaint may be used as evidence in any subsequent proceeding, civil or criminal. The commission must conclude an investigation under this paragraph within 2 years after the complaint is filed with the commission. [PL 1991, c. 99, §30 (AMD).]

[PL 2019, c. 465, §6 (AMD).]

1-A. Confidential documents. The following information collected during the investigation of a complaint pursuant to this section is confidential and may not be disclosed except to the parties to a complaint, the commission and its federal partner agencies or in a subsequent civil or criminal legal action:

- A. Medical, counseling, psychiatric and other confidential health records; [PL 2019, c. 465, §6 (NEW).]
- B. Social security numbers; [PL 2019, c. 465, §6 (NEW).]
- C. Evidence of conduct or statements made in compromise settlement negotiations, offers of settlement and final agreements made prior to the conclusion of the investigative process; [PL 2019, c. 465, §6 (NEW).]
- D. Names of minor children; [PL 2019, c. 465, §6 (NEW).]
- E. Any information the commission is required to keep confidential pursuant to work-sharing agreements with the United States Equal Employment Opportunity Commission, the United States Department of Housing and Urban Development or any other federal partner agencies; [PL 2019, c. 465, §6 (NEW).]
- F. Criminal history record information that is not otherwise made public by law; [PL 2019, c. 465, §6 (NEW).]
- G. Personnel records and personal information that has been made confidential by law; [PL 2019, c. 465, §6 (NEW).]

H. Notes made by the investigator for the investigator's private use in assessing evidence gathered during an investigation; and [PL 2019, c. 465, §6 (NEW).]

I. Any other records that are not public records in accordance with Title 1, section 402. [PL 2019, c. 465, §6 (NEW).]

Documents containing information set forth in this subsection are not "public records," as defined in Title 1, section 402, subsection 3, and do not become a matter of public record under this section. [PL 2019, c. 465, §6 (NEW).]

2. Order of dismissal. If the commission does not find reasonable grounds to believe that unlawful discrimination has occurred, it shall enter an order so finding, and dismiss the proceeding. [PL 1971, c. 501, §1 (NEW).]

2-A. Administrative dismissal. The executive director of the commission may administratively dismiss a complaint for reasons including, but not limited to:

A. Lack of jurisdiction; [PL 2019, c. 465, §6 (NEW).]

B. Failure to substantiate the complaint of discrimination; [PL 2019, c. 465, §6 (NEW).]

C. Failure to file a complaint of discrimination within 300 days of the date of alleged discrimination; [PL 2019, c. 465, §6 (NEW).]

D. Failure by complainant to proceed or cooperate with the investigation, including but not limited to a complainant's repeated or egregious failure to abide by the commission's confidentiality requirements; [PL 2019, c. 465, §6 (NEW).]

E. Bankruptcy filing by respondent; or [PL 2019, c. 465, §6 (NEW).]

F. Death of a complainant, if no person with legal authority to continue the case appears on that person's own behalf or on behalf of the complainant's estate within a reasonable time. [PL 2019, c. 465, §6 (NEW).]

An administrative dismissal operates as an order of dismissal and has the same effect as a finding by the commission that no reasonable grounds exist to believe that unlawful discrimination has occurred, except that an administrative dismissal pursuant to paragraph C does not entitle the complainant to an award of attorney's fees, civil penal damages or compensatory and punitive damages. [PL 2021, c. 366, §20 (AMD).]

3. Informal methods, conciliation. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, but finds no emergency of the sort contemplated in subsection 4, paragraph B, it shall endeavor to eliminate such discrimination by informal means such as conference, conciliation and persuasion. Everything said or done as part of such endeavors is confidential and may not be disclosed without the written consent of the parties to the proceeding, nor used as evidence in any subsequent proceeding, civil or criminal, except in a civil action alleging a breach of agreement filed by the commission or a party. Any post-finding conciliation agreement that includes the commission as a signatory is a public record. Notwithstanding this subsection, the commission and its employees have discretion to disclose such information to a party as is reasonably necessary to facilitate conciliation. If the case is disposed of by such informal means in a manner satisfactory to a majority of the commission, it shall dismiss the proceeding. [PL 2019, c. 465, §6 (AMD).]

4. Civil action by commission. The commission may file a civil action in accordance with this subsection.

A. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, and further believes that irreparable injury or great inconvenience will be caused the victim of such discrimination or to members of a protected class group if relief is not immediately

granted, or if conciliation efforts under subsection 3 have not succeeded, the commission may file in the Superior Court a civil action seeking such relief as is appropriate, including temporary restraining orders. In a complaint investigated pursuant to a memorandum of understanding between the commission and the United States Department of Housing and Urban Development that results in a reasonable grounds determination, the commission shall file a civil action for the use of complainant if conciliation efforts under subsection 3 are unsuccessful. [PL 2019, c. 465, §6 (AMD).]

B. Grounds for the filing of such an action before attempting conciliation include, but are not limited to:

- (1) In unlawful housing discrimination, that the housing accommodation sought is likely to be sold or rented to another during the pendency of proceedings, or that an unlawful eviction is about to occur;
- (2) In unlawful employment discrimination, that the victim of the discrimination has lost or is threatened with the loss of job and income as a result of such discrimination;
- (3) In unlawful public accommodations discrimination, that such discrimination is causing inconvenience to many persons;
- (4) In any unlawful discrimination, that the victim of the discrimination is suffering or is in danger of suffering severe financial loss in relation to circumstances, severe hardship or personal danger as a result of such discrimination. [PL 1991, c. 99, §30 (AMD).]

[PL 2019, c. 465, §6 (AMD).]

5. Confidentiality of 3rd-party records. The Legislature finds that persons who are not parties to a complaint under this chapter as a complainant or a respondent have a right to privacy. Any records of the commission that are open to the public under Title 1, chapter 13, must be kept in such a manner as to ensure that data identifying these 3rd parties is not reflected in the record.

[PL 2019, c. 465, §6 (AMD).]

6. Issuance of right-to-sue letter. The commission may issue a right-to-sue letter only in accordance with this subsection.

A. If, later than the 180th day after the date a complaint is filed with the commission, the commission has not filed a civil action in the case or has not entered into a conciliation agreement in the case, the complainant may submit a written request for a right-to-sue letter and the commission shall issue the requested right-to-sue letter. [PL 2023, c. 255, §1 (NEW).]

B. If a complainant submits a written request for a right-to-sue letter before the 180th day after the date a complaint is filed with the commission, the commission shall issue a right-to-sue letter if:

- (1) The executive director of the commission determines that the complainant has demonstrated good cause for requesting the right-to-sue letter before the expiration of the 180-day period after the filing of the complaint; and
- (2) The executive director of the commission certifies that it is probable that the commission will not be able to conclude its investigation before the 180-day period after the filing of the complaint. [PL 2023, c. 255, §1 (NEW).]

If the commission issues a right-to-sue letter in accordance with this subsection, it shall end its investigation of the complaint unless the executive director of the commission and legal counsel to the commission determine that proceeding with the investigation would achieve the purposes of this chapter, in which case the commission shall continue to investigate the complaint as if it had been filed by an employee of the commission under section 4611.

[PL 2023, c. 255, §1 (RPR).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1973, c. 347, §13 (AMD). PL 1973, c. 415, §2 (AMD). PL 1973, c. 625, §37 (AMD). PL 1973, c. 705, §11 (AMD). PL 1973, c. 788, §28 (AMD). PL 1975, c. 358, §15 (AMD). PL 1977, c. 648, §2 (AMD). PL 1981, c. 6 (AMD). PL 1983, c. 281, §§1,2 (AMD). PL 1985, c. 585, §§1,2 (AMD). PL 1991, c. 99, §§29,30 (AMD). PL 1993, c. 303, §2 (AMD). PL 1993, c. 327, §2 (AMD). PL 1993, c. 578, §1 (AMD). PL 1995, c. 462, §A7 (AMD). PL 2005, c. 10, §22 (AMD). PL 2007, c. 243, §§5-7 (AMD). PL 2009, c. 235, §2 (AMD). PL 2011, c. 613, §§19, 20 (AMD). PL 2011, c. 613, §29 (AFF). PL 2019, c. 465, §6 (AMD). PL 2021, c. 366, §20 (AMD). PL 2023, c. 255, §1 (AMD).

§4613. Procedure in Superior Court

1. Actions filed by commission. Any such action filed by the commission shall be heard by the Superior Court and may be advanced on the docket and receive priority over other civil cases where the court shall determine that the interests of justice so require. Except as otherwise provided in this chapter, the court shall hear the case and grant relief as in other civil actions for injunctions. Any such action shall be brought in the name of the commission for the use of the victim of the alleged discrimination or of a described class, and the commission shall furnish counsel for the prosecution thereof. Any person aggrieved by the alleged discrimination may intervene in such an action. In no such action brought by the commission shall any injunction bond be required, nor shall damages be assessed for the wrongful issuance of an injunction.

[PL 1979, c. 541, Pt. A, §40 (AMD).]

2. All actions under this Act. In any action filed under this Act by the commission or by any other person:

A. Where any person who has been the subject of alleged unlawful housing discrimination has not acquired substitute housing, temporary injunctions against the sale or rental to others of the housing accommodation as to which the violation allegedly occurred, and against the sale or rental of other housing accommodations controlled by the alleged violator shall be liberally granted in the interests of furthering the purposes of this Act, when it appears probable that the plaintiff will succeed upon final disposition of the case. [PL 1971, c. 501, §1 (NEW).]

B. If the court finds that unlawful discrimination occurred, its judgment must specify an appropriate remedy or remedies for that discrimination. The remedies may include, but are not limited to:

- (1) An order to cease and desist from the unlawful practices specified in the order;
- (2) An order to employ or reinstate a victim of unlawful employment discrimination, with or without back pay;
- (3) An order to accept or reinstate such a person in a union;
- (4) An order to rent or sell a specified housing accommodation, or one substantially identical to that accommodation if controlled by the respondent, to a victim of unlawful housing discrimination;
- (5) An order requiring the disclosure of the locations and descriptions of all housing accommodations that the violator has the right to sell, rent, lease or manage and forbidding the sale, rental or lease of those housing accommodations until the violator has given security to ensure compliance with any order entered against the violator and with all provisions of this Act. An order may continue the court's jurisdiction until the violator has demonstrated compliance and may defer decision on some or all relief until after a probationary period and a further hearing on the violator's conduct during that period;
- (6) An order to pay the victim, in cases of unlawful price discrimination, 3 times the amount of any excessive price demanded and paid by reason of that unlawful discrimination;

(7) An order to pay to the victim of unlawful discrimination, other than employment discrimination in the case of a respondent who has more than 14 employees, or, if the commission brings action on behalf of the victim, an order to pay to the victim, the commission or both, civil penal damages not in excess of \$20,000 in the case of the first order under this Act against the respondent, not in excess of \$50,000 in the case of a 2nd order against the respondent arising under the same subchapter of this Act and not in excess of \$100,000 in the case of a 3rd or subsequent order against the respondent arising under the same subchapter of this Act, except that the total amount of civil penal damages awarded in any action filed under this Act may not exceed the limits contained in this subparagraph;

(8) In cases of intentional employment discrimination with respondents who have more than 14 employees, compensatory and punitive damages as provided in this subparagraph.

(a) In an action brought by a complaining party under section 4612 and this section against a respondent who engaged in unlawful intentional discrimination prohibited under sections 4571 to 4575, if the complaining party can not recover under 42 United States Code, Section 1981 (1994), the complaining party may recover compensatory and punitive damages as allowed in this subparagraph in addition to any relief authorized elsewhere in this subsection from the respondent.

(b) When a discriminatory practice involves the provision of a reasonable accommodation, damages may not be awarded under this subparagraph when the covered entity demonstrates good faith efforts, in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide that individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

(c) A complaining party may recover punitive damages under this subparagraph against a respondent if the complaining party demonstrates that the respondent engaged in a discriminatory practice or discriminatory practices with malice or with reckless indifference to the rights of an aggrieved individual protected by this Act.

(d) Compensatory damages awarded under this subparagraph do not include back pay, interest on back pay or any other type of relief authorized elsewhere under this subsection.

(e) The sum of compensatory damages awarded under this subparagraph for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, other nonpecuniary losses and the amount of punitive damages awarded under this section may not exceed for each complaining party:

(i) In the case of a respondent who has more than 14 and fewer than 101 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$100,000;

(ii) In the case of a respondent who has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$300,000;

(iii) In the case of a respondent who has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$500,000; and

(iv) In the case of a respondent who has more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$1,000,000.

(f) Nothing in this subparagraph may be construed to limit the scope of, or the relief available under, 42 United States Code, Section 1981 (1994).

(g) If a complaining party seeks compensatory or punitive damages under this subparagraph, any party may demand a trial by jury, and the court may not inform the jury of the limitations described in division (e).

(h) This subparagraph does not apply to recoveries for a practice that is unlawful only because of its disparate impact.

(i) Punitive damages may not be included in a judgment or award against a governmental entity, as defined in Title 14, section 8102, subsection 2, or against an employee of a governmental entity based on a claim that arises out of an act or omission occurring within the course or scope of that employee's employment; and

(9) In addition to other remedies in subparagraphs (1) to (8), an order to pay actual and punitive damages in the case of discriminatory housing practices. This subparagraph is not intended to limit actual damages available to a plaintiff alleging other discrimination if the remedy of actual damages is otherwise available under this Act. Punitive damages under this subparagraph may not be included in a judgment or award against a governmental entity, as defined in Title 14, section 8102, subsection 2, or against an employee of a governmental entity based on a claim that arises out of an act or omission occurring within the course or scope of that employee's employment; [PL 2023, c. 263, §1 (AMD).]

C. The action must be commenced not more than either 2 years after the act of unlawful discrimination complained of or 90 days after any of the occurrences listed under section 4622, subsection 1, paragraphs A to D, whichever is later. [PL 2009, c. 235, §3 (AMD).]

D. The obtaining of an approval of a plan certified by the Office of the State Fire Marshal under section 4594-F, subsection 8 or 9 is rebuttable evidence that the plan does meet or exceed the minimum requirements of section 4594-F, subsection 8 or 9. [PL 1995, c. 393, §29 (NEW).]

[PL 2023, c. 263, §1 (AMD).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1975, c. 357, §2 (AMD). PL 1979, c. 541, §A40 (AMD). PL 1981, c. 255, §§1,2 (AMD). PL 1981, c. 470, §A7 (AMD). PL 1987, c. 38 (AMD). PL 1989, c. 99 (AMD). PL 1991, c. 474, §1 (AMD). PL 1991, c. 474, §3 (AFF). PL 1995, c. 393, §29 (AMD). PL 1997, c. 400, §1 (AMD). PL 2007, c. 243, §8 (AMD). PL 2007, c. 457, §1 (AMD). PL 2007, c. 695, Pt. A, §7 (AMD). PL 2009, c. 235, §3 (AMD). PL 2011, c. 613, §21 (AMD). PL 2011, c. 613, §29 (AFF). PL 2023, c. 263, §1 (AMD).

§4614. Attorney's fees and costs

In any civil action under this Act, the court, in its discretion, may allow the prevailing party reasonable attorney's fees and costs, except that the commission may not be awarded attorney's fees and costs and is not liable to pay any party's attorney's fees and costs. [PL 2019, c. 465, §7 (AMD).]

SECTION HISTORY

PL 1981, c. 255, §3 (NEW). PL 2019, c. 465, §7 (AMD).

SUBCHAPTER 7

CIVIL ACTIONS BY AGGRIEVED PERSONS

§4621. Civil action

Within the time limited, an aggrieved person may file a civil action in the Superior Court against the person or persons who committed the unlawful discrimination. [PL 2011, c. 613, §22 (AMD); PL 2011, c. 613, §29 (AFF).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1979, c. 541, §A41 (AMD). PL 2011, c. 613, §22 (AMD). PL 2011, c. 613, §29 (AFF).

§4622. Limitations on attorneys' fees and damages; procedures

1. Limitation. Attorney's fees under section 4614 and civil penal damages or compensatory and punitive damages under section 4613 may not be awarded to a plaintiff in a civil action under this Act unless the plaintiff alleges and establishes that, prior to the filing of the civil action, the plaintiff first filed a complaint with the commission and the commission either:

- A. Dismissed the case under section 4612, subsection 2 or subsection 2-A, paragraphs A and B and D to F; [PL 2021, c. 366, §21 (AMD).]
- B. Failed, within 90 days after finding reasonable grounds to believe that unlawful discrimination occurred, to enter into a conciliation agreement to which the plaintiff was a party; [PL 2003, c. 279, §1 (AMD).]
- C. Issued a right-to-sue letter under section 4612, subsection 6; or [PL 2009, c. 235, §4 (AMD).]
- D. Dismissed the case in error. [PL 2003, c. 279, §3 (NEW).]

If the commission issued a right-to-sue letter, the plaintiff may not be awarded attorney's fees, civil penal damages or compensatory and punitive damages unless the plaintiff establishes that the plaintiff received the right-to-sue letter before filing the civil action.

This subsection does not apply to or limit any remedies for civil actions filed under subchapter 5 if one or more additional causes of action are alleged in the same civil action that do not require exhaustion of administrative remedies or subchapter 4 if the allegations are covered by the federal Fair Housing Act, 42 United States Code, Chapter 45.

[PL 2023, c. 255, §2 (AMD).]

2. Advancement on docket; priority. If the plaintiff alleges and establishes that the conditions of subsection 1 have been met, the action may also be advanced on the docket and given priority over other civil actions.

[PL 1981, c. 255, §4 (NEW).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW). PL 1973, c. 347, §14 (AMD). PL 1981, c. 255, §4 (RPR). PL 1993, c. 327, §§3,4 (AMD). PL 1995, c. 393, §30 (AMD). PL 1997, c. 400, §2 (AMD). PL 2003, c. 279, §§1-3 (AMD). PL 2009, c. 235, §4 (AMD). PL 2011, c. 613, §23 (AMD). PL 2011, c. 613, §29 (AFF). PL 2019, c. 465, §8 (AMD). PL 2021, c. 366, §21 (AMD). PL 2023, c. 255, §2 (AMD).

§4623. Consolidation of cases

If it appears during the pendency of such private action that the commission has commenced an action against the same defendant, based on the same facts, the court shall, except for good cause shown, order consolidation of the cases, on such terms as justice may require. [PL 1971, c. 501, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW).

SUBCHAPTER 8

MISCELLANEOUS

§4630. Discrimination by public entities prohibited

1. Unlawful discrimination. A public entity may not discriminate against an individual, exclude an individual from participation in a service, program or activity of that public entity or otherwise deny to an individual the benefits of a service, program or activity of that public entity by reason of the individual's race or color, sex, sexual orientation or gender identity, age, physical or mental disability, religion, ancestry or national origin.

[PL 2023, c. 489, §10 (NEW).]

2. Exception; direct threat. This section does not require a public entity to permit an individual to participate in or benefit from a service, program or activity of a public entity when the 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 a policy, practice or procedure or by the provision of an auxiliary aid or service.

[PL 2023, c. 489, §10 (NEW).]

3. Continued applicability. This section does not diminish the applicability of other provisions of this chapter to public entities acting as employers, providing public accommodations or education or acting as providers of credit or housing.

[PL 2023, c. 489, §10 (NEW).]

SECTION HISTORY

PL 2023, c. 489, §10 (NEW).

§4631. Burden of proof

In any civil action under this Act, the burden shall be on the person seeking relief to prove, by a fair preponderance of the evidence, that the alleged unlawful discrimination occurred. [PL 1971, c. 501, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 501, §1 (NEW).

§4632. Offensive names

1. Complaint. Any person, including any employee of the commission, may file a complaint with the commission which states the belief that a name of a place is offensive, as defined in Title 1, section 1101.

[PL 1977, c. 259, §3 (NEW).]

2. Preliminary investigation. Upon receipt of such a complaint, the commission or its delegated single commissioner or investigator shall conduct a brief preliminary investigation as it deems necessary to determine whether the name of the place is offensive.

[PL 1977, c. 259, §3 (NEW).]

3. Order of dismissal. If the commission finds that the place does not have an offensive name, it shall enter an order so finding, and shall dismiss the proceeding.

[PL 1977, c. 259, §3 (NEW).]

4. Agreement. If the commission finds that the place does have an offensive name, it shall endeavor to accomplish a change in the name by an agreement with the municipal officers or county commissioners to initiate and implement the actions required to change the name, as provided in Title 1, section 1104.

[PL 1977, c. 259, §3 (NEW).]

5. Civil action by commission. If the commission is unable to obtain an agreement under subsection 4 or if the agreement is not carried out, the commission shall file in the Superior Court a civil action seeking such relief as is appropriate. [PL 1977, c. 259, §3 (NEW).]

6. Procedure in Superior Court. Any action filed by the commission pursuant to subsection 5 shall be heard by the Superior Court and shall be subject to the following provisions:

A. The court shall hear the case and grant relief as in other civil actions for injunctions. [PL 1977, c. 259, §3 (NEW).]

B. Any such action shall be brought in the name of the commission. [PL 1977, c. 259, §3 (NEW).]

C. Any person aggrieved by the alleged offensive name may intervene in such an action. [PL 1977, c. 259, §3 (NEW).]

D. In no such action brought by the commission shall any injunction bond be required; nor shall damages be assessed for the wrongful issuance of an injunction. [PL 1977, c. 259, §3 (NEW).]

E. If the court finds that a place has an offensive name, its judgment shall specify an appropriate remedy. Such remedy shall include an order requiring the municipal officers or county commissioners:

(1) To initiate procedures, which may be described in the order, for changing the name of the place, and

(2) To have completed the change of name and the notification as required in Title 1, section 1104, within 90 days of the issuance of the order. [PL 1977, c. 259, §3 (NEW).]

[PL 1977, c. 259, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 259, §3 (NEW).

§4633. Prohibition against retaliation and coercion

1. Retaliation. A person may not discriminate against any individual because that individual has opposed any act or practice that is unlawful under this Act or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this Act.

[PL 1993, c. 303, §3 (NEW).]

2. Interference, coercion or intimidation. It is unlawful for a person to coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment of the rights granted or protected by this Act or because that individual has exercised or enjoyed, or has aided or encouraged another individual in the exercise or enjoyment of, those rights.

[PL 1993, c. 303, §3 (NEW).]

3. Remedies and procedures. The remedies and procedures available under sections 4611 to 4614, 4621, 4622 and 4623 are available to aggrieved persons for violations of subsections 1 and 2.

[PL 1993, c. 303, §3 (NEW).]

SECTION HISTORY

PL 1993, c. 303, §3 (NEW).

§4634. Right to breast-feed

Notwithstanding any provision of law to the contrary, a person may breast-feed that person's baby in any location, public or private, where the person is otherwise authorized to be. [PL 2021, c. 366, §22 (AMD).]

SECTION HISTORY

PL 2001, c. 206, §1 (NEW). PL 2021, c. 366, §22 (AMD).

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