

4112-5-06

Discrimination against the disabled in places of public accommodation.

(A) Discrimination prohibited. It shall constitute unlawful discrimination in violation of Chapter 4112. of the Revised Code for any facility which is a place of public accommodation to:

- (1) Deny any disabled person the reasonable access to and use of the areas within such facility which are open to and used by the public in general.
- (2) Deny any disabled person any term, condition, privilege, service or advantage which, upon entrance to such facility, accrues to the public in general. For example, no disabled person shall be denied, except for reasons applicable alike to all persons regardless of disability, the full use and enjoyment of:
 - (a) Recreational or social facilities within such place of public accommodation.
 - (b) Food services within such facility.
 - (c) Maintenance services within such facility.
 - (d) Any service such place of public accommodation is in the business of providing.
- (3) Directly or indirectly publish, circulate, issue, display, post or mail any written, printed or broadcast communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of such place of public accommodation shall be refused, withheld or denied to any person on account of disability.
- (4) Deny any disabled person in a place of public accommodation the attendance of an animal assistant or require the disabled person to pay an extra charge for the attendance of the animal assistant.

(B) Reasonable accommodation. Whether a place of public accommodation has reasonably accommodated its facility for use by the disabled shall be determined on a case-by-case basis; however, the following factors will be considered:

- (1) Whether parking spaces for the disabled are provided in close proximity to the building entrance.

- (2) Whether walkways from such parking spaces have been made accessible to the disabled.
 - (3) Whether steps at building entrances have been supplemented by a means of access to the building entrance, such as ramps or by sloped grading.
 - (4) Whether public entrance doorways provide the disabled with reasonable access to such building.
 - (5) Whether public telephones, lavatory facilities, water fountains, elevators, corridors, vending machines, stairways, food service lanes and aisles, utility outlets of frequent or essential use, and other similar facilities within such place of public accommodation are accessible to the disabled.
- (C) Burden of proof when a disabled person is denied access to place of public accommodation. The owner, proprietor, keeper, or manager of a place of public accommodation shall have the burden of proving that the denial of any accommodation, advantage, facility or privilege to a disabled person is based on a restriction applicable to all persons regardless of disability or an inability to reasonably accommodate due to undue hardship.
- (D) Undue hardship. Upon an owner's, proprietor's, keeper's or manager's claim of inability to accommodate the disabled due to undue hardship, the following factors will be considered:
- (1) Business necessity.
 - (2) Whether the cost of accommodating the disabled would be substantially disproportionate to the total cost, use or size of such place of accommodation.
 - (3) Whether or not it is architecturally feasible to make reasonable accommodation.
 - (4) The requirements of other laws and contracts.
 - (5) Other appropriate considerations the proprietor, keeper or manager of the place of public accommodation can support with objective evidence.
- (E) New construction of places of public accommodation. Each place of public accommodation which is to be designed or constructed, after the effective date of rule 4112-5-06 of the Administrative Code, shall be deemed to have met the

requirements of rule 4112-5-06 of the Administrative Code if they are so designed and constructed as to be readily accessible to and usable by disabled persons.

- (F) Alterations and renovation of places of public accommodation. Each place of public accommodation which is altered or renovated in whole or in part, after the effective date of rule 4112-5-06 of the Administrative Code, shall be deemed to have met the requirements of rule 4112-5-06 of the Administrative Code if they are so altered or renovated as to be reasonably accessible to and usable by the disabled. However this paragraph shall not apply to repairs and minor alterations of such buildings.
- (G) "American National Standards Institute" accessibility standards. In order to meet the accessibility requirements of paragraphs (E) and (F) of this rule, all places of public accommodation designed, constructed, renovated or altered after the effective date of rule 4112-5-06 of the Administrative Code shall at a minimum conform such design, construction, renovation or alteration of its facilities to the "American National Standard Specification for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped," published by the "American National Standards Institute," as such standards are periodically and officially revised.
- (H) Variances. Variations with the requirements set forth in the "American National Standards Institute" specifications may be permissible when full compliance with such standards would result in undue hardship. The factors set forth in paragraph (D) of this rule shall be considered when a claim of undue hardship is raised.
- (I) Seating accommodations in places of public accommodations. As regulated by the number of persons to be accommodated by fixed seating, the following number of spaces for wheel chairs shall be provided:

(1)

Number of persons to be accommodated	Minimum of spaces
0 to 150 Inclusive	1
151 to 450 Inclusive	3
451 to 750 Inclusive	5
751 to 1000 Inclusive	6
Over 1000 - one additional seat for each 600 persons or fraction thereof.	

(2) In lieu of the requirements set forth in paragraph (I)(1) of this rule, there may be provided sections of fixed seating that can be readily removed when the occasion warrants.

(J) Parking spaces for the disabled in places of public accommodation. If parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces shall be provided for the disabled in each such parking area in conformance with the table below:

(1)

Total parking provided	Minimum spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100 over 1000

Spaces required by the table in paragraph (J)(1) of this rule need not be provided in the particular lot. They may be provided in a different location if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience is ensured.

(2) One in every eight accessible spaces must be designed with adequate adjacent space to deploy a lift used with a van. The access aisle for van accessible spaces must be a minimum of 96 inches wide. These spaces must have a sign indicating they are van accessible, as required under "Accessibility Guideline 4.6.4" of the Americans with Disabilities Act, but they are not reserved

exclusively to van users. The minimum vertical clearance at van accessible spaces is 98 inches at the parking space, and along at least one vehicle access route from the site entrance and exit to the parking space, as required under "Accessibility Guideline 4.6.5" of the Americans with Disabilities Act. All van accessible spaces may be grouped on one level of a parking structure.

- (K) Building codes. Nothing in these rules on the disabled shall be construed to minimize or circumvent in any way more stringent accessibility standards required of a place of public accommodation by local, state or federal building codes.

R.C. 119.032 review dates: 11/02/2012

WITHDRAWN ELECTRONICALLY

Certification

12/04/2012

Date

Promulgated Under:	119.03
Statutory Authority:	4112.04
Rule Amplifies:	4112.02
Prior Effective Dates:	11/15/1977, 7/12/1989, 1/11/1998