

**A-Engrossed**  
**Senate Bill 235**

Ordered by the Senate March 1  
Including Senate Amendments dated March 1

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**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires places of public accommodation to remove barriers and provide auxiliary aids and services when necessary to provide disabled persons access to goods, services and facilities offered by places of public accommodation. Provides exceptions.

**Declares emergency, effective on passage.**

**A BILL FOR AN ACT**

1  
2 Relating to discrimination against disabled persons by places of public accommodation; creating new  
3 provisions; amending ORS 659A.103 and 659A.142; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 659A.142 is amended to read:

6 659A.142. (1) It is an unlawful employment practice for an employment agency to fail or refuse  
7 to refer for employment, or otherwise discriminate against, *[any]* **an** individual because *[that]* **the**  
8 individual is a disabled person, or to classify or refer for employment *[any]* **an** individual because  
9 *[that]* **the** individual is a disabled person.

10 (2) It is an unlawful employment practice for a labor organization, because an individual is a  
11 disabled person, to exclude or to expel from its membership *[such]* **the** individual or to discriminate  
12 in any way against *[such]* **the** individual.

13 (3)(a) It is an unlawful practice for *[any]* **a** place of public accommodation, *[resort or*  
14 *amusement]* as defined in ORS 659A.400, or *[any]* **a** person acting on behalf of *[such]* **the** place, to  
15 make any distinction, discrimination or restriction because a customer or patron is a disabled per-  
16 son.

17 **(b) A place of public accommodation shall remove physical barriers to entering and using**  
18 **existing facilities if the removal is readily achievable.**

19 **(c) A place of public accommodation shall provide auxiliary aids and services to a disabled**  
20 **person when necessary to ensure equal access to offered goods, services, facilities, privileges,**  
21 **advantages and accommodations unless providing the auxiliary aids and services would result**  
22 **in significant difficulty or expense or in a fundamental alteration in the nature of the goods,**  
23 **services, facilities, privileges, advantages or accommodations.**

24 **(d)(A) A place of public accommodation shall remove physical and administrative barriers**  
25 **to accessing offered goods and services if the removal is readily achievable.**

26 **(B) If barrier removal is not readily achievable, the place of public accommodation shall**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 take alternative steps to make offered goods and services accessible, such as:

- 2 (i) Providing goods and services at the door, sidewalk or curb;
- 3 (ii) Providing home delivery;
- 4 (iii) Retrieving merchandise from inaccessible shelves or racks;
- 5 (iv) Relocating activities to accessible locations; or
- 6 (v) Relaxing administrative policies.

7 (C) A place of public accommodation may not impose charges on a disabled person to  
8 recover the costs of barrier removal.

9 (e) Notwithstanding the other provisions of this subsection, a place of public accommo-  
10 dation may refuse to permit a disabled person to participate in or benefit from the offered  
11 goods, services, facilities, privileges, advantages or accommodations if the disabled person  
12 poses a direct threat to the health or safety of others. As used in this paragraph, "direct  
13 threat" means significant risk of substantial harm that cannot be eliminated or reduced be-  
14 low the level of significant risk of substantial harm by a modification of policies, practices  
15 or procedures or by the provision of auxiliary aids and services.

16 (f) A violation of this subsection is an unlawful practice.

17 (4)(a) In accordance with applicable provisions of ORS chapter 183, the Commissioner of  
18 the Bureau of Labor and Industries shall adopt rules necessary for the administration and  
19 enforcement of subsection (3) of this section. In adopting rules under this subsection, the  
20 commissioner shall consider, and to the greatest extent practicable shall adopt, the regu-  
21 lations of the United States Department of Justice adopted under Title III of the Americans  
22 with Disabilities Act of 1990.

23 (b) Subsection (3) of this section shall be construed to the extent possible in a manner  
24 that is consistent with any similar provisions of the Americans with Disabilities Act of 1990.

25 [(4)(a)] (5)(a) It is an unlawful practice for state government to exclude an individual from par-  
26 ticipation in or deny an individual the benefits of the services, programs or activities of state gov-  
27 ernment or to make any distinction, discrimination or restriction because the individual is a disabled  
28 person.

29 (b) Paragraph (a) of this subsection is intended to ensure equal access to available services,  
30 programs and activities of state government.

31 (c) Paragraph (a) of this subsection is not intended to:

32 (A) Create an independent entitlement to any service, program or activity of state government;  
33 or

34 (B) Require state government to take any action that state government can demonstrate would  
35 result in a fundamental alteration in the nature of a service, program or activity of state govern-  
36 ment or would result in undue financial or administrative burdens on state government.

37 [(5)] (6) Receipt or alleged receipt of treatment for a mental disorder does not constitute evi-  
38 dence of an individual's inability to acquire, rent or maintain property.

39 **SECTION 2.** ORS 659A.103 is amended to read:

40 659A.103. (1) It is declared to be the public policy of Oregon to guarantee disabled persons the  
41 fullest possible participation in the social and economic life of the state, to engage in remunerative  
42 employment, to use and enjoy places of public accommodation, [*resort or amusement,*] to participate  
43 in and receive the benefits of the services, programs and activities of state government and to se-  
44 cure housing accommodations of their choice, without discrimination.

45 (2) The right to otherwise lawful employment without discrimination because of disability where

1 the reasonable demands of the position do not require such a distinction, and the right to use and  
2 enjoy places of public accommodation, [*resort or amusement,*] to participate in and receive the ben-  
3 efits of the services, programs and activities of state government and to purchase or rent property  
4 without discrimination because of disability, are hereby recognized and declared to be the rights of  
5 all the people of this state. It is hereby declared to be the policy of the State of Oregon to protect  
6 these rights and ORS 659A.100 to 659A.145 shall be construed to effectuate such policy.

7 **SECTION 3. The amendments to ORS 659A.142 by section 1 of this 2005 Act apply only**  
8 **to conduct occurring on or after the effective date of this 2005 Act.**

9 **SECTION 4. This 2005 Act being necessary for the immediate preservation of the public**  
10 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**  
11 **on its passage.**

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