



SPONSOR: Rep. Osienski & Sen. Townsend
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HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 354

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO EQUAL ACCOMMODATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 4501, Title 6 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 4501. Purpose and construction.

4 This chapter is intended to prevent, in places of public accommodations, practices of discrimination against any
5 person because of race, age, marital status, creed, color, sex, ~~physical~~ disability, sexual orientation, gender ~~identity~~ identity,
6 or national origin. This chapter shall be liberally construed to the end that the rights herein provided for all people, without
7 regard to race, age, marital status, creed, color, sex, ~~physical~~ disability, sexual orientation, gender ~~identity~~ identity, or
8 national origin, may be effectively safeguarded. Furthermore, in defining the scope or extent of any duty imposed by this
9 chapter, higher or more comprehensive obligations established by otherwise applicable federal, state, or local enactments
10 may be considered.

11 Section 2. Amend § 4502 of Title 6 of the Delaware Code by making deletions as shown by strike through and
12 insertions as shown by underline as follows and by redesignating accordingly:

13 § 4502. Definitions.

14 As used in this chapter:

15 (7) "Disability" means a physical or mental impairment which substantially limits a person's major life
16 activities, or being regarded as having such an impairment, but such terms do not include current, illegal use of a
17 controlled substance as defined in § 102 of the Controlled Substance Act (21 U.S.C. § 802) or Chapter 47 of Title
18 16, Uniform Controlled Substance Act. ~~Discrimination against a person with a disability includes discrimination~~
19 ~~against the use of a support animal because of a physical disability of the user. Support animal means any animal~~
20 ~~individually trained to do work or perform tasks to meet the requirements of a person with a physical disability,~~
21 ~~including, but not limited to, minimal protection work, rescue work, pulling a wheelchair or fetching dropped~~
22 ~~items.~~

(14) A ~~place~~ "Place of public accommodation" means any establishment which caters to or offers goods or services or facilities to, or solicits patronage from, the general public. This definition includes state agencies, local government agencies, and state-funded agencies performing public functions. This definition ~~shall apply to~~ includes hotels and motels catering to the transient public, but it ~~shall~~ does not apply to the sale or rental of houses, housing units, apartments, rooming ~~houses~~ houses, or other dwellings, nor to tourist homes with less than 10 rental units catering to the transient public.

() "Service animal" means a dog individually trained to do work or perform tasks for the benefit of a person with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

Section 3. Amend § 4504 of Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4504. Unlawful practices.

(a)(1) No person being the owner, lessee, proprietor, manager, director, supervisor, superintendent, ~~agent~~ agent, or employee of any place of public accommodation, ~~shall~~ may directly or indirectly refuse, withhold ~~from~~ from, or deny to any person, on account of race, age, marital status, creed, color, sex, disability, sexual orientation, gender ~~identity~~ identity, or national origin, any of the ~~accommodation~~, accommodations, facilities, ~~advantages~~ advantages, or privileges thereof.

(2) A place of public accommodation may provide reasonable accommodations based on gender identity in areas of facilities where disrobing is likely, such as locker rooms or other changing facilities, which reasonable accommodations may include a separate or private place for the use of persons whose gender-related identity, appearance or expression is different from their assigned sex at birth, provided that such reasonable accommodations are not inconsistent with the gender-related identity of such persons.

(3) A place of public accommodation must permit service animals as follows:

a. An individual with a disability accompanied by a service animal in any place of public accommodation. ~~For the purpose of~~

b. An individual training support animals a service animal to be used by persons with disabilities, all trainers and their support animals shall be included within those covered by this subsection. disabilities accompanied by a service animal in any place of public accommodation.

SYNOPSIS

This Act makes the Delaware equal accommodation law internally consistent, correctly organized, and aligned with the Americans with Disabilities Act ("ADA").

This Act corrects the potential for confusion in Chapter 45 of Title 6 in the following ways:

1. The current law states that the purpose of Chapter 45 is to prohibit discrimination based upon physical disability but Chapter 45 actually prohibits discrimination against individuals with physical or mental disabilities. This Act corrects the purpose language in § 4501 of Title 6 by changing the term "physical disability" to "disability" so that it accurately states the scope of the protection provided by of Chapter 45.

2. The current law uses the term "support animal" while the ADA and other states use the term "service animal." This Act replaces the term "support animal" with "service animal" to use the same term as the ADA.

3. The current law defines "support animal" as assisting only individuals with physical disabilities and does not address service animals that assist individuals with nonphysical disabilities, even though Chapter 45 prohibits discrimination against individuals with physical or mental impairments. This Act uses the ADA definition of service animal, which requires that the dog be trained to do work or perform tasks for an individual with a disability.

4. The current law places the prohibition against discriminating against an individual with a support animal in the definition section rather than in the prohibited practices section. This Act moves the requirement that a service animal be permitted to accompany an individual with a disability in public places from the definition of disability to the statute that lists unlawful practices.

With these corrections, this Act restructures and corrects the language in Chapter 45 of Title 6 so that it is consistent with the ADA and clear that an individual with any disability, including an individual with Post-Traumatic Stress Disorder or other psychiatric, intellectual, or mental disability, may be accompanied by a service animal in a public place.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.