

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 51.5-44 of the Code of Virginia, relating to rights of persons with disabilities; public places; playgrounds.

[H 1800]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 51.5-44 of the Code of Virginia is amended and reenacted as follows:

§ 51.5-44. Rights of persons with disabilities in public places and places of public accommodation.

A. A person with a disability has the same rights as other persons to the full and free use of the streets, highways, sidewalks, walkways, paths of travel, *public playgrounds*, public buildings, public facilities, public entities, and other public places. For purposes of this section, a "person with a disability" means a person whose disability is unrelated to his ability to utilize and benefit from a place of public accommodation or public service.

B. Each place of public accommodation shall ensure that barriers to accessibility are removed when the removal is readily achievable. To determine whether an action is readily achievable, the following factors shall be considered:

1. The nature and cost of the action needed to remove the barriers;

2. The overall financial resources of the place of public accommodation involved in the action; the number of persons employed at the place of public accommodation; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the place of public accommodation;

3. The geographic separateness and the administrative or fiscal relationship of the place of public accommodation in question to any parent corporation or entity;

4. If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees or the number, type, and location of its facilities; and

5. If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.

A person with a disability is entitled to full and equal accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, subways, boats or any other public conveyances or modes of transportation, restaurants, hotels, lodging places, places of public accommodation, amusement or resort, public entities including schools, and other places to which the general public is invited subject only to the conditions and limitations established by law and applicable alike to all persons.

C. Each town, city, or county, individually or through transportation district commissions, shall ensure that persons with disabilities have access to the public transportation within its jurisdiction by either (i) use of the same transportation facilities or carriers available to the general public, (ii) provision of paratransit or special transportation services for persons with disabilities, or (iii) both. All persons with disabilities in the jurisdiction's service area who, by reason of their disabilities, are unable to use the service for the general public shall be eligible to use such paratransit or special transportation service. No fee that exceeds the fee charged to the general public shall be charged a person with a disability for the use of the same transportation facilities or carriers available to the general public. Paratransit or special transportation service for persons with disabilities may charge fees to such persons comparable to the fees charged to the general public for similar service in the jurisdiction service area, taking into account especially the type, length, and time of trip. Any variance between special service and regular service fares shall be justifiable in terms of actual differences between the two kinds of service provided.

D. Nothing in this title shall be construed to require retrofitting of any public transit equipment or to require the retrofitting, renovation, or alteration of buildings or places to a degree more stringent than that required by the applicable building code in effect at the time the building permit for such building or place is issued.

E. Every totally or partially blind person shall have the right to be accompanied by a dog in harness trained as a guide dog, every person who is deaf or hard of hearing shall have the right to be accompanied by a dog trained as a hearing dog on a blaze orange leash, and every mobility-impaired or otherwise disabled person shall have the right to be accompanied by a dog trained as a service dog in a harness, backpack, or vest identifying the dog as a trained service dog in any of the places listed in subsection B without being required to pay an extra charge for the dog, provided that he shall be liable for any damage done to the

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57 premises or facilities by such dog. The provisions of this section shall apply to persons accompanied by a dog
58 that is in training, at least six months of age, and is (i) in harness, provided such person is an experienced
59 trainer of guide dogs or is conducting continuing training of a guide dog; (ii) on a blaze orange leash,
60 provided such person is an experienced trainer of hearing dogs or is conducting continuing training of a
61 hearing dog; (iii) in a harness, backpack, or vest identifying the dog as a trained service dog, provided such
62 person is an experienced trainer of service dogs or is conducting continuing training of a service dog; (iv)
63 wearing a jacket identifying the recognized guide, hearing, or service dog organization, provided such person
64 is an experienced trainer of the organization identified on the jacket; or (v) the person is part of a three-unit
65 service dog team and is conducting continuing training of a service dog.