

JAN 15 2025

A BILL FOR AN ACT

RELATING TO ACCESSIBILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the information age
2 is changing how providers of public accommodations communicate
3 with customers and the public, including the use of technologies
4 such as websites and applications on smartphones and other
5 mobile devices to take reservations, view menus, place orders,
6 make sales, and provide product information.

7 The legislature further finds that ready access to and use
8 of information and communication technology is essential for all
9 citizens to have equal access to and full enjoyment of the
10 goods, services, facilities, privileges, advantages, and
11 accommodations of a place of public accommodation. However,
12 websites and applications used by public accommodation providers
13 are too often not accessible to and usable by persons with
14 disabilities, denying them full and equal access.

15 The legislature additionally finds that incorporating and
16 clarifying the requirements for electronic access into existing
17 law that prohibits discrimination in public accommodations based



1 on disability can better assist providers of public
2 accommodations in providing their services to persons with
3 disabilities in the State.

4 Accordingly, the purpose of this Act is to establish that
5 it is an unlawful discriminatory practice for public
6 accommodations to deny a person with a disability full and equal
7 enjoyment of information related to their services, facilities,
8 privileges, advantages, or accommodations using information and
9 communication technology intended for use by the general public
10 as applicants, participants, customers, clients, or visitors.

11 SECTION 2. Section 489-2, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By adding four new definitions to be appropriately
14 inserted and to read:

15 ""Accessible" means the ability to receive, use, and
16 manipulate data and operate controls included in information and
17 communication technology in a manner equivalent to that of
18 individuals who do not have a disability.

19 "Information and communication technology" means electronic
20 information, software, systems, and equipment used in the
21 creation, manipulation, storage, display, or transmission of



1 data, including internet and intranet systems, websites and
2 interfaces, software applications, operating systems, video and
3 multimedia, telecommunications products, kiosks, information
4 transaction machines, copiers, printers, smartphones, tablets,
5 and desktop and portable computers.

6 "Software application" means a software that is designed to
7 run on a device, including a smartphone, tablet, self-service
8 kiosk, wearable technology item, laptop or desktop computer, or
9 another device, and helps perform or helps the user perform a
10 specific task.

11 "Website" means any collection of related web pages,
12 images, videos, or other digital assets placed in one or more
13 computer server-based file archives so that the collection can
14 be accessed over the Internet or through a private computer
15 network."

16 2. By amending the definition of "place of public
17 accommodation" to read:

18 "Place of public accommodation" means a business,
19 accommodation, refreshment, entertainment, recreation, or
20 transportation facility of any kind whose goods, services,
21 facilities, privileges, advantages, or accommodations are



1 extended, offered, sold, or otherwise made available to the
2 general public as customers, clients, or visitors[-], regardless
3 of whether the presence of the business, accommodation,
4 refreshment, entertainment, recreation, or transportation
5 facility in the State is physical or digital. By way of
6 example, but not of limitation, place of public accommodation
7 includes facilities of the following types:

- 8 (1) A facility providing services relating to travel or
9 transportation;
- 10 (2) An inn, hotel, motel, or other establishment that
11 provides lodging to transient guests;
- 12 (3) A restaurant, cafeteria, lunchroom, lunch counter,
13 soda fountain, or other facility principally engaged
14 in selling food for consumption on the premises of a
15 retail establishment;
- 16 (4) A shopping center or any establishment that sells
17 goods or services at retail;
- 18 (5) An establishment licensed under chapter 281 doing
19 business under a class 4, 5, 7, 8, 9, 10, 11, or 12
20 license, as defined in section 281-31;



- 1 (6) A motion picture theater, other theater, auditorium,
2 convention center, lecture hall, concert hall, sports
3 arena, stadium, or other place of exhibition or
4 entertainment;
- 5 (7) A barber shop, beauty shop, bathhouse, swimming pool,
6 gymnasium, reducing or massage salon, or other
7 establishment conducted to serve the health,
8 appearance, or physical condition of persons;
- 9 (8) A park, a campsite, or trailer facility, or other
10 recreation facility;
- 11 (9) A comfort station; or a dispensary, clinic, hospital,
12 convalescent home, or other institution for the
13 infirm;
- 14 (10) A professional office of a health care provider, as
15 defined in section 323D-2, or other similar service
16 establishment;
- 17 (11) A mortuary or undertaking establishment; and
- 18 (12) An establishment that is physically located within the
19 premises of an establishment otherwise covered by this
20 definition, or within the premises of which is
21 physically located a covered establishment, and which



1 holds itself out as serving patrons of the covered
2 establishment.

3 No place of public accommodation defined in this section
4 shall be requested to reconstruct any facility or part thereof
5 to comply with this chapter."

6 SECTION 3. Section 489-5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§489-5 Other discriminatory practices.** (a) It is a
9 discriminatory practice for two or more persons to conspire:

10 (1) To retaliate or discriminate against a person because
11 the person has opposed an unfair discriminatory
12 practice;

13 (2) To aid, abet, incite, or coerce a person to engage in
14 a discriminatory practice; or

15 (3) Wilfully, to obstruct, or prevent, a person from
16 complying with this chapter.

17 (b) It is a discriminatory practice to deny a person the
18 full and equal enjoyment of the goods, services, facilities,
19 privileges, advantages, and accommodations of a place of public
20 accommodations because of the known disability of an individual



1 with whom the person is known to have a relationship or
2 association.

3 (c) It is a discriminatory practice to deny a person with
4 a disability full and equal enjoyment of information related to
5 the goods, services, facilities, privileges, advantages, or
6 accommodations of a place of public accommodations using
7 information and communication technology intended for use by the
8 general public as applicants, participants, customers, clients,
9 or visitors.

10 Beginning July 1, 2026, a place of public accommodations
11 shall:

12 (1) Ensure that information and communication technology
13 used to communicate with applicants, participants,
14 customers, and other members of the public is
15 accessible for full and equal use by persons with
16 disabilities; and

17 (2) Ensure that communications and interactions through
18 information and communication technology with
19 applicants, participants, customers, and other members
20 of the public with disabilities are as effective as



1 communications and interactions with individuals
2 without disabilities.
3 For the purposes of this subsection, a website that meets
4 or exceeds the Web Content Accessibility Guidelines 2.1 Level AA
5 adopted by the World Wide Web Consortium for accessibility shall
6 be deemed accessible.
7 A public accommodation shall not be deemed to be in
8 violation of this subsection if compliance would impose an undue
9 burden on the public accommodation or fundamentally alter the
10 nature of the public accommodation's information and
11 communication technology."

12 SECTION 4. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: _____



S.B. NO. 149

Report Title:

Discrimination in Public Accommodations; Persons with Disabilities; Discriminatory Practices; Accessibility; Information and Communication Technology

Description:

Establishes that it is an unlawful discriminatory practice for public accommodations to deny a person with a disability full and equal enjoyment of information related to their services, facilities, privileges, advantages, or accommodations using information and communication technology intended for use by the general public as applicants, participants, customers, clients, or visitors.

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