

EXECUTIVE CABINET
Kentucky Commission on Human Rights
(Amendment)

104 KAR 1:100. Nondiscrimination on the basis of disability by a place of public accommodations, licensing agencies and trade organizations.

RELATES TO: KRS 344.050, 344.060, 344.120, 344.130, 344.500, 28 C.F.R. 36

STATUTORY AUTHORITY: KRS 12.290, 344.190(14), 28 C.F.R. 36, 42 U.S.C. 12181

NECESSITY, FUNCTION, AND CONFORMITY: KRS 344.190(14) requires the Kentucky Commission on Human Rights to prescribe administrative regulations to effectuate the purposes and provisions of the Kentucky Civil Rights Act. This administrative regulation provides that all places of public accommodation be designed and constructed so as to be readily accessible to and usable by persons with disabilities. In addition, examinations or courses related to licensing or certification for professional and trade purposes shall be accessible to persons with disabilities.

Section 1. Part 36—Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, 28 C.F.R.,~~[CFR]~~ Part 36, 81 Federal Register 53240, August 11, 2016,56 Federal Register 35592, July 26, 1991,~~[56 FR 355.43, January 26, 1992.]~~ is adopted without change and supplements Title III of the Americans with Disabilities Act, which extends the prohibitions against disabilities discrimination to privately operated public accommodations and commercial facilities. It further requires that examinations or courses related to licensing or certification for professional and trade purposes be accessible to the disabled. This administrative regulation was promulgated by the U.S. Department of Justice and is enforced by the Kentucky Commission on Civil Rights.

~~[Section 2.] [Material Adopted Without Change. The following material is adopted without change:]~~

~~[(1)] ["Nondiscriminatory on the Basis of Disability by Public Accommodations and in Commercial Facilities" — 28 CFR 36, 56 Federal Register 35543, January 26, 1992.]~~

~~[(2)] [This material may be inspected, copied, or obtained:]~~

~~[(a)] [At the offices of the Kentucky Commission on Human Rights, The Heyburn Building, Suite 700, 332 West Broadway, Louisville, Kentucky 40202; or]~~

~~[(b)] [By calling:]~~

~~[1.] [(502) 595-4024;]~~

~~[2.] [(800) 292-5566;]~~

~~[3.] [(502) 595-4084, (TDD), for the hearing impaired;]~~

~~[4.] [Kentucky Relay Service, (800) 648-6056 (TTY/TDD).]~~

~~[(c)] [The material may also be obtained directly from the Office of The Americans With Disabilities Act at (202) 514-0301 (voice), (202) 414-0381 (TDD), or (202) 514-6193 (electronic bulletin board) in the following alternative formats:]~~

~~[1.] [Large print;]~~

~~[2.] [Braille;]~~

~~[3.] [Electronic file on computer disk;]~~

~~[4.] [Audio tape.]~~

(19 Ky.R. 2158; Am. 2397; eff. 5-10-1993; Cert eff. 1-29-2020; 50 Ky.R. 86; eff. 10-1-2024)

This is to certify that the Commissioners of the Kentucky Commission on Human Rights have approved this administrative regulation as amended prior to its filing with the Legislative Research Commission, as required by KRS 344.190(14).

RAYMOND BURSE, Commission Chair
CYNTHIA FOX, Executive Director

APPROVED BY AGENCY: May 24, 2023

FILED WITH LRC: June 14, 2023 at 1:45 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 21, 2023, at 10 a.m. Eastern Time at the office of the Kentucky Commission on Human Rights, 332 W. Broadway, Louisville, Kentucky 40202. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: L. Joe Dunman, Staff Attorney Manager/Assistant General Counsel, Kentucky Commission on Human Rights, 332 W. Broadway, Louisville, Kentucky 40202, phone (502) 595-4024, email joe.dunman@ky.gov; Colt Sells, Staff Attorney II, Kentucky Commission on Human Rights, 332 W. Broadway, Louisville, Kentucky 40202, phone (502) 595-4024, email colt.sells@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:L. Joe Dunman, Staff Attorney

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes standards and procedures for public accommodations, licensing agencies, and trade organizations to follow and adopts federal regulations consistent with the text and purposes of KRS 344.010-500, 990.

(b) The necessity of this administrative regulation:

Pursuant to KRS 344.190, this administrative regulation is necessary to establish standards for public accommodations, licensing agencies, and trade organizations to ensure equal access and enjoyment by people with disabilities.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 344.190(14) authorizes the Kentucky Commission on Human Rights "to adopt, promulgate, amend, and rescind regulations to effectuate the purposes and provisions" of KRS 344. KRS 344.020(1) states that the purpose of KRS 344 is to "provide for the execution within the state of policies embodied" in several federal anti-discrimination laws, upon which KRS 344 is modeled.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation currently assists in the administration of KRS 344 in a way that is consistent with its counterpart federal anti-discrimination statutes and regulations.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The amendment updates a reference to a version of a federal regulation that has been superseded or revised and replaces it with a reference to the current version of the same federal regulation.

(b) The necessity of the amendment to this administrative regulation:

The amendment to this administrative regulation is necessary to comply with KRS 344.190, which obligates the Kentucky Commission on Human Rights to cooperate with the federal Equal Employment Opportunity Commission and to adopt federal regulations promulgated by that agency. The amendment will replace a reference to an obsolete versions of a federal regulation with correct references to the current version of that regulation.

(c) How the amendment conforms to the content of the authorizing statutes:

KRS 344.190(14) authorizes the Kentucky Commission on Human Rights "to adopt, promulgate, amend, and rescind regulations to effectuate the purposes and provisions" of KRS 344.

(d) How the amendment will assist in the effective administration of the statutes:

The amendment provides accurate notice of all applicable regulations and rules to those subject to KRS 344 and allows the Kentucky Commission on Human Rights.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This administrative regulation applies to all individuals, businesses, or state and local governments subject to KRS 344, which includes all "public accommodations," "licensing agencies," and "labor organizations" as defined under KRS 344.030.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

No action is required to comply with this amendment beyond the general requirement to comply with the anti-discrimination provisions of KRS 344.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

No costs are imposed by this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Compliance with this regulation will ensure fair and equal treatment for all Kentuckians in employment, as already required by KRS 344.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

The expected cost to implement this administrative regulation initially is nominal.

(b) On a continuing basis:

The expected cost to implement this administrative regulation on a continuing basis is nominal.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

Funds from the budget of the Kentucky Commission on Human Rights will be used for the implementation and enforcement of this regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

An increase in fees or funding is not anticipated to be necessary by the change this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

No fees are associated with this administrative regulation.

(9) TIERING: Is tiering applied?

Tiering is not used in this administrative regulation, as this regulation will apply to all those subject to KRS 344 throughout all of the counties of the Commonwealth.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

Any units, parts, or divisions of state or local governments that qualify as "public accommodations," "licensing agencies," or "labor organizations" as defined by KRS 344 will be impacted by this regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

This regulation is authorized by KRS 344.190.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This regulation will not generate any revenue for any state or local government in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This regulation will not generate any revenue for any state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year?

This regulation will not impose any additional costs.

(d) How much will it cost to administer this program for subsequent years?

This regulation will not impose any additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):Not applicable.

Expenditures (+/-):Not applicable.

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

(c) How much will it cost the regulated entities for the first year?

(d) How much will it cost the regulated entities for subsequent years?

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):Not applicable.

Expenditures (+/-):Not applicable.

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]. This regulation will not have a major economic impact.