

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 975

H.P. 714

House of Representatives, March 29, 1989

Reference to the Committee on Legal Affairs suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative KETOVER of Portland.

Cosponsored by Senator BUSTIN of Kennebec, Representative NORTON of Winthrop and Senator ANDREWS of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act Regarding Access to Places of Employment or Public Accommodation.



1 **Be it enacted by the People of the State of Maine as follows:**

3 **Sec. 1. 5 MRSA §4594-D** is enacted to read:

5 1. Definitions. As used in this section, unless the
7 context otherwise indicates, the following terms have the
9 following meanings.

11 A. "Builder" means the applicant for a building permit in a
13 municipality that requires such permits or the owner of the
15 property in a municipality that does not require building
17 permits.

19 B. "Design professional" means an architect or professional
21 engineer registered to practice under Title 32.

23 C. "Standards of construction" means the 1986 standards set
25 forth by the American National Standards Institute in the
27 publication "Specifications for Making Buildings and
29 Facilities Accessible to and Usable by Physically
31 Handicapped People," ANSI A 117.1-1986.

33 2. Facilities attested. This section applies to any
35 building or facility constructed or enlarged specifically as a
37 place of public accommodation or place of employment on or after
39 January 1, 1990, or when the estimated total costs for remodeling
41 or renovating an existing building exceed \$100,000, and when the
43 remodeling or renovating is begun after January 1, 1990.

45 3. Application. Facilities subject to this section shall
47 meet the following standards.

49 A. Places of employment or public accommodation and
51 additions to these places constructed on or after January 1,
1990, shall meet the standards of construction.

B. Places of employment or public accommodation remodeled
or renovated on or after January 1, 1990, with the exception
of those repairs outlined in the rules adopted pursuant to
this section, shall meet the following 5 parts of the
standards of construction when the proposed remodeling or
renovation substantially affects those portions of the
building normally accessible to the public:

(1) 4.3 accessible routes;

(2) 4.13 doors;

(3) 4.17 toilet stalls, at least one of which must be
a standard toilet stall configuration pursuant to ANSI
Figure 30(a). Any additional toilet stalls within the
same toilet room may be either standard stall

1 configuration, ANSI Figure 30(a) or alternate stall
3 configuration, ANSI Figure 30(b);

5 (4) 4.27.3 tactile warnings on doors to hazardous
7 areas; and

9 (5) Handicapped parking spaces in adequate number,
11 pursuant to section 4593, subsection 1, paragraph E.

13 4. Rules. The commission may adopt and from time to time
15 alter, amend and repeal rules designed to make buildings under
17 this section accessible to, functional for and safe for use by
19 physically handicapped persons in accordance with section 4594-D,
21 subsection 3, and may adopt, alter, amend and repeal rules
23 designed to otherwise enforce this section.

25 5. Certification; inspection. The builder of a facility to
27 which this section applies shall obtain a certification from a
29 design professional that the plans of the facility meet the
31 standards of construction required by this section. The builder
33 shall submit plans for the facility to the Office of the State
35 Fire Marshal, which shall be the contractor for the Maine Human
37 Rights Commission for the purpose of mandatory plan review, to
39 assure that the plans meet the standards of construction which
41 apply to the facility as required by this section. No building
43 permit may be issued by the municipal authority having
45 jurisdiction to issue these permits unless the approval of the
47 Office of the State Fire Marshal has been made on the plans
49 stating that the facility meets the standards of construction
51 required by this section.

If the municipal officials of the municipality where the facility
will be constructed or renovated, remodeled or enlarged inspect
buildings for compliance with construction standards, that
inspection shall include an inspection for compliance with the
certified plans. The municipal officials shall require the
facility to be inspected to meet the construction standards as
certified before the municipal officials permit the facility to
be occupied.

6. Waivers; variance. If the Maine Human Rights Commission
determines that compliance with this section and its rules is not
feasible technologically or would result in excessive and
unreasonable costs without any substantial benefit to physically
handicapped persons in a particular case, it may provide for
modification of, or substitution for, these standards. In all
petitions for variance or waiver, the burden of proof shall be on
the party requesting a variance or waiver to justify its
allowance.

The request for waivers or variances shall be heard by a
representative of the Maine Human Rights Commission and a

1 designee of the Office of the State Fire Marshal. A decision
3 shall be provided in writing to the party requesting the waiver
or variance.

5 7. Appeals. Any decision the commission makes pursuant to
7 the granting of waivers or variances shall be subject to review
9 in Superior Court upon petition of the aggrieved party within 30
11 days after the decision for which review is sought. The court
shall enter an order enforcing, modifying or setting aside the
decision of the commission or it may remand the proceeding to the
commission for such further action as the court may direct.

13 8. Training and education. The commission shall use all
15 reasonable methods to disseminate the provisions of this section
17 and all rules adopted under this section to architects,
19 engineers, contractors, state and local building inspectors, the
21 chief executive of each city and town, handicapped groups and any
23 other person requesting this information. The commission shall
25 take such other action as may be necessary and appropriate to
encourage and assist all state and local building inspectors to
enforce this section and all rules adopted under this section,
including, but not limited to, the provision of training and
technical assistance to inspectors. The commission shall also
provide training and technical assistance to professional groups
and public officials.

27 **Sec. 2. Appropriation.** The following funds are appropriated
29 from the General Fund to carry out the purposes of this Act.

	1989-90	1990-91
MAINE HUMAN RIGHTS COMMISSION		
Positions	(3)	(3)
Personal Services	\$70,238	\$76,391
All Other	17,340	15,760
Capital Expenditures	3,694	
MAINE HUMAN RIGHTS COMMISSION		
TOTAL	<u>\$91,272</u>	<u>\$92,151</u>

43 **PUBLIC SAFETY, DEPARTMENT OF**

45 **Office of the State Fire Marshal**

Positions	(3)	(3)
Personal Services	\$68,169	\$73,850
All Other	16,260	14,640
Capital Expenditures	7,500	

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**DEPARTMENT OF PUBLIC SAFETY
TOTAL**

\$91,929

\$88,490

TOTAL APPROPRIATIONS

\$183,201

\$180,641

STATEMENT OF FACT

This bill amends the Maine Human Rights Act with regard to buildings or facilities constructed, remodeled, renovated or enlarged specifically as a place of public accommodation or place of employment after January 1, 1990. The standards that must be met remain as in existing law. Under this bill, plans for all buildings subject to this section must be approved by the Department of Public Safety, the Office of the State Fire Marshal and the contractor for the Maine Human Rights Commission before a building permit is issued. This bill assures that buildings required to be accessible will in fact be accessible.