

## **106.52. Public places of accommodation or amusement**

(1) Definitions. In this section:

(a) "Complainant" means a person who files a complaint alleging a violation of sub. (3).

(b) "Conciliation" has the meaning given in s. 106.50(1m)(d).

(c) "Disability" has the meaning given in s. 106.50(1m)(g).

(cm) "Fitness center" means an establishment, whether operated for profit or not for profit, that provides as its primary purpose services or facilities that are purported to assist patrons in physical exercise, in weight control, or in figure development. "Fitness center" does not include an organization solely offering training or facilities in an individual sport or a weight reduction center, as defined in s. 100.177(1)(e).

(d) "Lodging establishment" means any of the following:

1. A bed and breakfast establishment, as defined in s. 97.01(1g).

2. A hotel, as defined in s. 97.01(7).

3. A tourist rooming house, as defined in s. 97.01(15k).

4. A campground.

(e)1. "Public place of accommodation or amusement" shall be interpreted broadly to include, but not be limited to, places of business or recreation; lodging establishments; restaurants; taverns; barber, cosmetologist, aesthetician, electrologist, or manicuring establishments; nursing homes; clinics; hospitals; cemeteries; and any place where accommodations, amusement, goods, or services are available either free or for a consideration, subject to subd. 2.

2. "Public place of accommodation or amusement" does not include a place where a bona fide private, nonprofit organization or institution provides accommodations, amusement, goods or services during an event in which the organization or institution provides the accommodations, amusement, goods or services to the following individuals only:

a. Members of the organization or institution.

b. Guests named by members of the organization or institution.

c. Guests named by the organization or institution.

(f) "Respondent" means the person accused in a complaint or amended complaint of committing a violation of sub. (3).

(fm) "Service animal" means a guide dog, signal dog, or other animal that is individually trained or is being trained to do work or perform tasks for the benefit of a person with a disability, including the work or task of guiding a person with impaired vision, alerting a person with impaired hearing to intruders or sound, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

(g) "Sexual orientation" has the meaning given in s. 111.32(13m).

(2) Department to administer. The department shall administer this section through its division of equal rights. The department may promulgate such rules as are necessary to carry out this section. No rule may prohibit the processing of any class action complaint or the ordering of any class-based remedy, and no rule may provide that complaints may be consolidated for administrative convenience only.

(3) Public place of accommodation or amusement. (a) No person may do any of the following:

1. Deny to another or charge another a higher price than the regular rate for the full and equal enjoyment of any public place of accommodation or amusement because of sex, race, color, creed, disability, sexual orientation, national origin or ancestry.

1m. Deny to an adult or charge an adult a higher price than the regular rate for the full and equal enjoyment of a lodging establishment because of age, subject to s. 125.07.

2. Give preferential treatment to some classes of persons in providing services or facilities in any public place of accommodation or amusement because of sex, race, color, creed, sexual orientation, national origin or ancestry.

3. Directly or indirectly publish, circulate, display or mail any written communication which the communicator knows is to the effect that any of the facilities of any public place of accommodation or amusement will be denied to any person by reason of sex, race, color, creed, disability, sexual orientation, national origin or ancestry or that the patronage of a person is unwelcome, objectionable or unacceptable for any of those reasons.

3m. Directly or indirectly publish, circulate, display or mail any written communication which the communicator knows is to the effect that any of the facilities of a lodging establishment will be denied to an adult because of age, subject to s. 125.07.

4. Refuse to furnish or charge another a higher rate for any automobile insurance because of race, color, creed, disability, national origin or ancestry.

5. Refuse to rent, charge a higher price than the regular rate or give preferential treatment, because of sex, race, color, creed, sexual orientation, national origin or ancestry, regarding the use of any private facilities commonly rented to the public.

(am)1. Subject to subds. 2., 3., and 4., no person may do any of the following:

a. Refuse to permit entrance into, or use of, or otherwise deny the full and equal enjoyment of any public place of accommodation or amusement to a person with a disability or to a service animal trainer because the person with a disability or the trainer is accompanied by a service animal.

b. Charge a person with a disability or a service animal trainer a higher price than the regular rate, including a deposit or surcharge, for the full and equal enjoyment of any public place of accommodation or amusement because the person with a disability or the trainer is accompanied by a service animal.

c. Directly or indirectly publish, circulate, display, or mail any written communication that the communicator knows is to the effect that entrance into, or use of, or the full and equal enjoyment of any of the facilities of the public place of accommodation or amusement will be denied to a person with a disability or a service animal trainer because the person with a disability or the trainer is accompanied by a service animal or that the patronage of a person with a disability or a service animal trainer is unwelcome, objectionable, or unacceptable because the person with a disability or the trainer is accompanied by a service animal.

2. The prohibitions specified in subd. 1. apply to a service animal trainer only if the animal accompanying the service animal trainer is wearing a harness or a leash and special cape. Subdivision 1. does not prohibit a person who is accompanied by an animal from being asked whether the animal is a service animal that is required because of a disability or is an animal that is being trained to be a service animal and does not prohibit a service animal trainer from being required to produce a certification or other credential issued by a school for training service animals that the animal is being trained to be a service animal. Subdivision 1. prohibits a person with a disability from being required to produce documentation of his or her disability or a certification or other credential that the animal is trained as or is being trained to be a service animal.

3. A person may exclude a service animal from a public place of accommodation or amusement if accommodation of the service animal would result in a fundamental alteration in the nature of the accommodations, amusement, goods, or services provided or would jeopardize the safe operation of the public place of accommodation or amusement. If a service animal must be separated from the person whom the service animal is accompanying, it is the responsibility of that person to arrange for the care and supervision of the service animal during the period of separation.

4. A public place of accommodation or amusement shall modify its policies, practices, and procedures to permit the full and equal enjoyment of the public place of accommodation or amusement by a person with a disability or a service animal trainer who is accompanied by a service animal. Those policies, practices, and procedures shall ensure that a person with a disability or a service animal trainer who is accompanied by a service animal is not separated from the service animal, that the service animal is permitted to accompany the person with a disability or the service animal trainer to all areas of the public place of accommodation or amusement that are open to the general public, and that the person with a disability or the service animal

trainer is not segregated from other patrons of the public place of accommodation or amusement.

(b) Nothing in this subsection prohibits separate dormitories at higher educational institutions or separate public toilets, showers, saunas and dressing rooms for persons of different sexes.

(c) Nothing in this subsection prohibits separate treatment of persons based on sex with regard to public toilets, showers, saunas and dressing rooms for persons of different sexes.

(d) Nothing in this subsection prohibits a domestic abuse services organization, as defined in s. 995.67(1)(b), from providing separate shelter facilities, private home shelter care, advocacy, counseling or other care, treatment or services for persons of different sexes or from providing for separate treatment of persons based on sex with regard to the provision of shelter facilities, private home shelter care, advocacy, counseling or other care, treatment or services for persons of different sexes.

(e) Nothing in this section prohibits a fitness center whose services or facilities are intended for the exclusive use of persons of the same sex from providing the use of those services or facilities exclusively to persons of that sex, from denying the use of those services or facilities to persons of the opposite sex, or from directly or indirectly publishing, circulating, displaying, or mailing any written communication to the effect that the use of those services or facilities will be provided exclusively to persons of the same sex and will be denied to persons of the opposite sex.

(4) Investigation and review of claims, public places. (a) Claims filed with department. 1. The department may receive and investigate a complaint charging a violation of sub. (3) if the complaint is filed with the department no more than 300 days after the alleged act prohibited under sub. (3) occurred. A complaint shall be a written statement of the essential facts constituting the act prohibited under sub. (3) charged, and shall be verified.

2. In carrying out this subsection, the department and its duly authorized agents may hold hearings, subpoena witnesses, take testimony and make investigations as provided in this chapter. The department, upon its own motion, may test and investigate for the purpose of establishing violations of sub. (3), and may make, sign and file complaints alleging violations of sub. (3), and initiate investigations and studies to carry out the purposes of this subsection and sub. (3).

3. The department shall employ such examiners as are necessary to hear and decide complaints of acts prohibited under sub. (3) and to assist in the effective administration of this subsection. The examiners may make findings and orders under this subsection.

4. If the department finds probable cause to believe that any act prohibited under sub. (3) has been or is being committed, the department may endeavor to eliminate the act by conference, conciliation and persuasion. If the department determines that such

conference, conciliation and persuasion has not eliminated the alleged act prohibited under sub. (3), the department shall issue and serve a written notice of hearing, specifying the nature and acts prohibited under sub. (3) which appear to have been committed, and requiring the person named, in this subsection called the “respondent”, to answer the complaint at a hearing before an examiner. The notice shall specify a time of hearing, not less than 10 days after service of the complaint, and a place of hearing within the county in which the violation of sub. (3) is alleged to have occurred. The attorney of record for any party may issue a subpoena to compel the attendance of a witness or the production of evidence. A subpoena issued by an attorney must be in substantially the same form as provided in s. 805.07(4) and must be served in the manner provided in s. 805.07(5). The attorney shall, at the time of issuance, send a copy of the subpoena to the appeal tribunal or other representative of the department responsible for conducting the proceeding. The testimony at the hearing shall be recorded by the department. In all hearings before an examiner, except those for determining probable cause, the burden of proof is on the party alleging an act prohibited under sub. (3). If, after the hearing, the examiner finds by a fair preponderance of the evidence that the respondent has violated sub. (3), the examiner shall make written findings and order such action by the respondent as will effectuate the purpose of this subsection and sub. (3). The department shall serve a certified copy of the examiner's findings and order on the respondent and complainant. The order shall have the same force as other orders of the department and shall be enforced as provided in this subsection except that the enforcement of the order is automatically stayed upon the filing of a petition for review with the commission. If the examiner finds that the respondent has not engaged in an act prohibited under sub. (3) as alleged in the complaint, the department shall serve a certified copy of the examiner's findings on the complainant and the respondent together with an order dismissing the complaint. If the complaint is dismissed, costs in an amount not to exceed \$100 plus actual disbursements for the attendance of witnesses may be assessed against the department in the discretion of the department.

5. At any time after a complaint is filed, the department may file a petition in the circuit court for the county in which the act prohibited under sub. (3) allegedly occurred, or for the county in which a respondent resides or transacts business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this subsection, including an order or decree restraining the respondent from performing an act tending to render ineffectual an order the department may enter with respect to the complaint. The court may grant such temporary relief or restraining order as the court deems just and proper.

(b) Petition for review. 1. A respondent or complainant who is dissatisfied with the findings and order of the examiner under par. (a) may file a written petition with the department for review by the commission of the findings and order.

2. The commission shall either reverse, modify, set aside or affirm the findings and order in whole or in part, or direct the taking of additional evidence. Such action shall be based on a review of the evidence submitted. If the commission is satisfied that a respondent or complainant has been prejudiced because of exceptional delay in the

receipt of a copy of any findings and order it may extend the time another 21 days for filing the petition with the department.

3. On motion, the commission may set aside, modify or change any decision made by the commission, at any time within 28 days from the date thereof if it discovers any mistake therein, or upon the grounds of newly discovered evidence. The commission may on its own motion, for reasons it deems sufficient, set aside any final decision of the commission within one year from the date thereof upon grounds of mistake or newly discovered evidence, and remand the case to the department for further proceedings.

4. If no petition is filed within 21 days from the date that a copy of the findings and order of the examiner are mailed to the last-known address of the respondent and complainant, the findings and order shall be considered final.

(c) Judicial review. Within 30 days after service upon all parties of an order of the commission under par. (b), the respondent or complainant may appeal the order to the circuit court for the county in which the alleged act prohibited under sub. (3) took place by the filing of a petition for review. The respondent or complainant shall receive a new trial on all issues relating to any alleged act prohibited under sub. (3) and a further right to a trial by jury, if so desired. The department of justice shall represent the commission. In any such trial the burden shall be to prove an act prohibited under sub. (3) by a fair preponderance of the evidence. Costs in an amount not to exceed \$100 plus actual disbursements for the attendance of witnesses may be taxed to the prevailing party on the appeal.

(d) Penalty. 1. A person who willfully violates sub. (3) or any lawful order issued under this subsection shall, for the first violation, forfeit not less than \$100 nor more than \$1,000.

2. A person adjudged to have violated sub. (3) within 5 years after having been adjudged to have violated sub. (3), for every violation committed within the 5 years, shall forfeit not less than \$1,000 nor more than \$10,000.

3. Payment of a forfeiture under this paragraph shall be stayed during the period in which an appeal may be taken and during the pendency of an appeal under par. (c).

(e) Civil actions. 1. A person, including the state, alleging a violation of sub. (3) may bring a civil action for appropriate injunctive relief, for damages including punitive damages and, in the case of a prevailing plaintiff, for court costs and reasonable attorney fees. The attorney general shall represent the department in an action to which the department is a party.

2. An action commenced under this paragraph may be brought in the circuit court for the county where the alleged violation occurred, or for the county where the person against whom the civil complaint is filed resides or has a principal place of business, and shall be commenced within one year after the alleged violation occurred.

3. The remedies provided for in this paragraph shall be in addition to any other remedies contained in this subsection.

(5) Discrimination by licensed or chartered persons. (a) If the department finds probable cause to believe that an act has been or is being committed in violation of sub. (3) and that the person who committed or is committing the act is licensed or chartered under state law, the department shall notify the licensing or chartering agency of its findings and may file a complaint with such agency together with a request that the agency initiate proceedings to suspend or revoke the license or charter of such person or take other less restrictive disciplinary action.

(b) Upon filing a complaint under par. (a), the department shall make available to the appropriate licensing or chartering agency all pertinent documents and files in its custody, and shall cooperate fully with such agency in the agency's proceedings.

<<For credits, see Historical Note field.>>

#### HISTORICAL AND STATUTORY NOTES

##### Source:

L.1895, c. 223.  
St.1898, § 4398c.  
L.1925, c. 4.  
St.1925, § 340.75.  
L.1931, c. 21.  
L.1939, c. 392.  
L.1955, c. 696, § 1.  
St.1955, § 942.04.  
L.1959, c. 118.  
L.1965, c. 439, § 4.  
L.1965, c. 625, § 37, eff. Aug. 4, 1966.  
L.1967, c. 94, eff. Aug. 2, 1967.  
L.1969, c. 276, §§ 381, 584, eff. Dec. 28, 1969.  
St.1969, §§ 101.60, 174.056, 942.04.  
L.1971, c. 185, § 1, eff. March 8, 1972.  
L.1971, c. 307, § 51.  
L.1975, c. 94, §§ 84, 85, eff. Oct. 30, 1975.  
L.1975, c. 256, §§ 1 to 4, eff. May 21, 1976.  
L.1975, c. 275, § 26, eff. May 27, 1976.  
L.1975, c. 422, § 155, eff. June 30, 1976.  
L.1977, c. 29, §§ 1007 to 1009, eff. July 1, 1977.  
L.1977, c. 173, § 44, eff. June 1, 1978.  
L.1979, c. 110, § 25, eff. March 1, 1980.  
L.1979, c. 188, §§ 1 to 3, eff. May 7, 1980.  
L.1979, c. 221, §§ 540, 541, 543, eff. April 30, 1980.  
L.1979, c. 247, § 2, eff. May 10, 1980.  
L.1979, c. 355, § 110, eff. July 1, 1980.  
L.1981, c. 112, § 25, eff. March 3, 1982.

1983 Act 27, § 1370, eff. July 2, 1983.  
1985 Act 67, § 2, eff. Nov. 23, 1985.  
1985 Act 319, § 1, eff. May 7, 1986.  
St.1987, §§ 101.22, 174.056, 942.04.  
1989 Act 27, §§ 1, 2, eff. Aug. 3, 1989.  
1989 Act 47, §§ 4, 5, 8, 10, 11, eff. Sept. 12, 1989.  
1989 Act 94, § 3, eff. Dec. 19, 1989.  
1989 Act 359, § 239, eff. June 2, 1990.  
1991 Act 295, §§ 6, 18, 22, 23, 27, 30, 32, 33, eff. Sept. 1, 1992.  
1993 Act 27, § 148, eff. Jan. 1, 1994.  
St.1993, §§ 101.22, 174.056.  
1995 Act 27, § 3687, eff. July 1, 1996.  
1997 Act 237, § 354g, eff. June 17, 1998.  
St.1997, §§ 106.04(1m)(n), (p), (9), (10), 176.056.  
1999 Act 82, §§ 57, 60, 75 to 92, 102 to 105, eff. May 6, 2000.  
1999 Act 185, § 193(1), eff. Sept. 1, 2000.  
1999 Act 186, § 72, eff. June 2, 2000.  
2001 Act 103, § 330, eff. Sept. 1, 2002.  
2003 Act 23, §§ 1d, 1m, eff. June 3, 2003.  
St.2003, §§ 106.52, 174.056(1)(intro.).  
2005 Act 155, § 4, eff. April 5, 2006.  
2005 Act 354, §§ 1 to 4, 6, eff. May 3, 2006.  
2007 Act 97, § 115, eff. March 28, 2008.  
2011 Act 190, § 2, eff. July 1, 2012.  
2015 Act 55, §§ 3105 to 3107, eff. July 1, 2016.