

By Senator Stewart

13-01016D-17

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1                   A bill to be entitled  
2       An act relating to the accessibility of places of  
3       public accommodation; creating s. 553.5141, F.S.;  
4       providing definitions; requiring the Department of  
5       Business and Professional Regulation to establish a  
6       program to provide for the certification of certain  
7       experts; authorizing such experts to advise and  
8       provide certain inspections for places of public  
9       accommodation relating to the Americans with  
10      Disabilities Act; requiring the department to  
11      establish certification requirements; authorizing an  
12      owner of a place of public accommodation to request a  
13      facility to be inspected for specified purposes;  
14      requiring a certified expert to provide the owner of a  
15      place of public accommodation a certification of  
16      conformity if the facility conforms to specified  
17      provisions of the Americans with Disabilities Act;  
18      specifying that such certificate is valid for 3 years;  
19      specifying that an owner of a place of public  
20      accommodation may submit a remediation plan to the  
21      department under certain circumstances; providing that  
22      a remediation plan is only valid for a certain period  
23      of time; requiring a court to consider certain  
24      information in specified actions; requiring the  
25      department to develop and maintain a website for  
26      specified purposes; requiring the department to adopt  
27      rules; providing an effective date.

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29   Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 553.5141, Florida Statutes, is created to read:

553.5141 Americans with Disabilities Act; certification of experts.-

(1) For purposes of this section:

(a) "Certified expert" means a person certified by the department under subsection (2).

(b) "Commerce" means communication, trade, traffic, transportation, or travel:

1. Among the several states;

2. Between any foreign country or any territory or possession and any state; or

3. Between points in the same state but through another state or foreign country.

(c) "Department" means the Department of Business and Professional Regulation.

(d) "Facility" means all or any portion of buildings, complexes, equipment, parking lots, passageways, roads, rolling stock or other conveyances, sites, structures, walks, or other real or personal property, including the site where the building, equipment, property, or structure is located.

(e) "Place of public accommodation" means a facility operated by a private entity whose operations affect commerce and is a private entity as described in 42 U.S.C. s. 12181(7).

(f) "Private entity" means any nongovernmental entity, such as a company or nonprofit organization, corporation, partnership, any other legal entity, or any natural person.

(g) "Registry" means the registry of certified experts and

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59 of remediation plans filed by places of public accommodation and  
60 maintained by the department.

61 (2) (a) The department shall establish a program to provide  
62 certification for experts who have sufficient experience,  
63 knowledge, or training to advise places of public accommodation  
64 regarding the compliance guidelines applicable to places of  
65 public accommodation under subchapter III of the Americans with  
66 Disabilities Act, 42 U.S.C. s. 12182. The certified experts may  
67 provide inspections of places of public accommodation to  
68 determine if barriers to access are present in the facility  
69 within the meaning of 42 U.S.C. s. 12182 and the applicable  
70 regulations interpreting that chapter.

71 (b) The department shall establish requirements for experts  
72 to qualify for certification under this section.

73 (3) (a) An owner of a place of public accommodation may  
74 request that a facility be inspected by a certified expert.  
75 However, use of an expert certified under this section is not  
76 required.

77 (b) If a place of public accommodation conforms to  
78 subchapter III of the Americans with Disabilities Act, the  
79 certified expert must provide the owner with a certification of  
80 conformity which is valid for 3 years after the date of  
81 issuance.

82 (c) If a place of public accommodation does not conform to  
83 subchapter III of the Americans with Disabilities Act, the owner  
84 may submit a remediation plan to the department which includes:

85 1. The date the place of public accommodation was  
86 inspected.

87 2. The name of the certified expert or other person who

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88 inspected the place of public accommodation.

89 3. Identification of specific remedial measures that the  
90 place of public accommodation will undertake.

91 4. The anticipated dates of initiation and completion for  
92 each remedial measure that the place of public accommodation has  
93 agreed to undertake.

94 (d) A remediation plan submitted under paragraph (c) is  
95 only valid for 10 years after its submission to the department.

96 (e) In any action brought in this state alleging a  
97 violation of subchapter III of the Americans with Disabilities  
98 Act, 42 U.S.C. s. 12182, the courts shall consider any  
99 remediation plan filed by the place of public accommodation  
100 before the filing of the plaintiff's complaint in determining if  
101 the plaintiff's complaint was filed in good faith and if the  
102 plaintiff is entitled to attorney fees and costs.

103 (4) The department shall develop and maintain on its  
104 website, accessible to the public, an electronic registry of  
105 certifications of conformity and remediation plans.

106 (5) The department shall adopt rules to administer this  
107 section.

108 Section 2. This act shall take effect July 1, 2017.