

HB 727

2017

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 licensure 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 licensure requirements; authorizing an owner
12 of a place of public accommodation to request a
13 facility to be inspected for specified purposes;
14 specifying that an owner of a place of public
15 accommodation may submit a remediation plan to the
16 department; requiring a court to consider certain
17 information in specified actions; requiring the
18 department to develop and maintain a website for
19 specified purposes; requiring the department to adopt
20 rules; providing an effective date.

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

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

26 553.5141 Americans with Disabilities Act; licensure of
 27 experts.—

28 (1) For purposes of this section:

29 (a) "Commerce" means travel, trade, traffic, commerce,
 30 transportation, or communication:

31 1. Among the several states;

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

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

36 (b) "Department" means the Department of Business and
 37 Professional Regulation.

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

43 (d) "Licensed expert" means a person licensed by the
 44 department under subsection (2).

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

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

51 (g) "Registry" means the registry of licensed experts and
52 of remediation plans filed by places of public accommodation and
53 maintained by the department.

54 (2) (a) The department shall establish a program to provide
55 licensure for experts who have sufficient training, knowledge,
56 or experience to advise places of public accommodation regarding
57 the compliance guidelines applicable to places of public
58 accommodation under Title III of the Americans with Disabilities
59 Act, 42 U.S.C. s. 12182. The licensed experts must provide
60 inspections of places of public accommodation to determine if
61 barriers to access are present in the facility within the
62 meaning of 42 U.S.C. s. 12182 and the applicable regulations
63 interpreting that chapter.

64 (b) The department shall establish requirements to qualify
65 for licensure under this section.

66 (3) (a) An owner of a place of public accommodation may
67 request that a facility be inspected by a licensed expert.
68 However, use of an expert licensed under this section is not
69 required.

70 (b) If a place of public accommodation does not conform to
71 subchapter III of the Americans with Disabilities Act, the owner
72 may submit a remediation plan to the department that includes:

73 1. The date the place of public of accommodation was
74 inspected.

75 2. The name of the licensed expert or other person who

76 inspected the place of public accommodation.

77 3. Identification of specific remedial measures that the
78 place of public accommodation will undertake.

79 4. The anticipated date of initiation and completion for
80 each remedial measure that the place of public accommodation has
81 agreed to undertake.

82 (c) In any action brought in this state alleging a
83 violation of Title III of the Americans with Disabilities Act,
84 42 U.S.C. s. 12182, the courts shall consider any remediation
85 plan filed by the place of public accommodation before the
86 filing of the plaintiff's complaint in determining if the
87 plaintiff's complaint was filed in good faith and if the
88 plaintiff is entitled to attorney fees and costs.

89 (4) The department shall develop and maintain a website,
90 accessible to the public, which provides an electronic registry
91 of certifications of conformity and remediation plans.

92 (5) The department shall adopt rules to administer this
93 section.

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